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GRAY'S  
CIVIL GOVERNMENT  
OF FLORIDA



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GRAY'S  
CIVIL GOVERNMENT  
OF  
FLORIDA

*WITH INTRODUCTORY CHAPTERS  
ON GENERAL CIVICS AND  
SUPPLEMENT CONTAINING THE  
CONSTITUTION OF THE STATE.*

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*BY*  
***R. A. GRAY***

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R. A. GRAY, Publisher,  
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## PREFACE

Several years experience in school room contact with pupils and teachers, followed by more than ten years in the service of the State and National Government have deeply impressed me with the need of a more comprehensive text book on the Civil Government of Florida for use in the schools of our State. After discussing the subject with a number of our teachers and others vitally interested in the work of public education in Florida, and receiving from them much kindly encouragement to undertake the work of preparing a text emphasizing the civil government of our own State, this volume has been written. It is published with full realization that it will be subject to much improvement; and constructive criticism from the educators of the State is invited. With the aid of criticisms and suggestions from the teachers who may use it future editions should be improved, and it will be revised from time to time that it may be made of more value in the schools and that it may be kept up to date with changes in administrative laws and governmental ideas as they develop.

For the benefit of any teacher of civics who may use this text a word may be permitted as to the plan followed in its preparation. It is assumed that the pupil will have had previous instruction in general civics, particularly in the outline of the government of the United States. Therefore, the discussion of civil government in its broader scope has been largely limited to the introductory chapters wherein an effort was made to lead up to the main body of the text with such subject matter as would form a fitting introduction to the work, and would give to the student added interest in the subject. To arouse a spirit of inquiry and research, to cause the student to take a keener interest in the governmental affairs

of his own State, and better fit him or her for the responsibilities of citizenship have been the main purposes in preparing the volume. If any measure of success in developing these ideas and carrying out these purposes is attained it must, of course, be with the aid and co-operation of the teacher of civics into whose hands it may come.

The plan of the text contemplates that after finishing the introductory chapters dealing with civil government somewhat in the abstract, the student will take up the study of the government of Florida immediately following the chapter designed to bring out a proper perspective of the relationship of the State to the Nation.

In dealing with the subject of our own State government no effort has been made to draw particular distinction between the generalization of the Constitution and the particularizing of the statutes, but care has been taken to mention the source of certain powers and requirements and thus enable the student to differentiate between what is a constitutional provision or requirement and what is provided by legislative enactment.

The aim has been to give a picture of the State government, divided into the three co-ordinate branches, and the main purposes and functions of these departments. By analyzing the framework of the State government as it exists and studying its operation, it is hoped the student will acquire such added interest that will lead him on to further inquiry, and cause him to begin thinking for himself in terms of governmental relationship and the duties and privileges of citizenship.

Acknowledgment is here made of the helpful suggestions from many friends among the educators of the State, and from public officials. Valuable aid has been received through references to many works on civil government and the history of government and English law. Particular mention should be made of the following: *A Sketch of English Legal His-*

*tory*; *Maitland and Montague*, G. P. Putnam's Sons, New York; *Smith's Elementary Law*; Walter Denton Smith, West Publishing Co.; *State Government in the United States*; Arthur N. Holcombe, The McMillan Company.

Grateful acknowledgment is also made of the inspiration received from the faculty of the Georgetown University Law School where keener interest and deeper insight into history and functions of government came to me as a student in that institution.

R. A. GRAY.

Tallahassee, Florida, 1921.

# The American's Creed

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By WM. TYLER PAGE

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign Nation of many sovereign States; a perfect Union, one and inseparable; established upon those principles of freedom, equality, justice, and humanity for which American patriots sacrificed their lives and fortunes.

I therefore believe it is my duty to my country to love it; to support its Constitution; to obey its laws; to respect its flag; and to defend it against all enemies.

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Publishers Note.—“THE AMERICAN'S CREED” was selected as the best expression of Americanism, by competent judges, from a large number of offerings in a nation-wide contest. Its author—Hon. Wm. Tyler Page, Chief Clerk of The National House of Representatives—has kindly given his permission for its use in this volume.



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# Gray's Civil Government of Florida

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## CHAPTER I

### ORIGIN AND PURPOSE OF GOVERNMENT

**The Natural Origin of Civil Government.**—Man in his primitive state was confronted almost solely with the problem of gaining food to sustain life and securing safety from ferocious beasts. His needs were primal and his government was his own inclination. But man is by nature a social creature, that is, his natural tendency is to associate with his fellows rather than isolate himself. So with his increase in numbers in the earth he lived in groups or tribes.

After the population of the inhabited places of the earth grew to the extent that groups or tribes of one locality were wont to attack those of another, some kind of organization or banding together for common defense was essential. At this stage in the growth of the human race organization was necessary also to maintain, and protect in a crude way it was true, the rights of the individuals who composed the group or tribe, and to maintain some degree of order in these primitive communities.

As the habitat of mankind became more populous the necessity for a banding together of individuals for common defense against outside foes and for defending the individual against individual or group aggression became more urgent.

Also, man in his natural development began to discover that certain conveniences as well as protection could best be obtained and maintained by concerted action, or by the group powers rather than by individual efforts. One author has illustrated the origin of government by supposing an individual shipwrecked on a lonely island, and his freedom of action while thus alone; then the coming of other persons to the island and how conditions would at once be changed. We see that government among men originated from the necessity of defending themselves against outside foes and protecting their persons and possessions from individual aggression, and preserving order in their group. It has gradually grown from this origin to where now its purposes are many and complex in their nature. But throughout the whole fabric of our governmental systems as they exist today, run the main motives of common defense, preserving order, and protecting the individual in his rights; with the secondary ideas, yet now much emphasized, of adding to the comforts and conveniences of man and to his physical, mental, moral and ethical development.

### **The Prime Purpose of All Governments Among Men.**

—The main purpose or object of civil government may be set forth in three short phrases which the student can easily memorize. They are as follows: *The common defense, justice between man and man, and the common welfare.* On these rests the whole frame-work of modern governmental systems. The common defense is provided by the government because our highest civilization has not yet reached the point where any nation or people are sure of not being the object of attack by some other nation. Though we have progressed so far that such a condition is being hoped for, even anticipated; a condition to be attained by a banding together in a league or society for that purpose of all the principal nations of the world; yet

its actual accomplishment may be far in the future. Justice between man and man must be established because men cannot agree among themselves as to their individual rights in all circumstances and the weak would fall as a prey to the strong. Promoting the common welfare is a fundamental idea of government, for the nation, government or group is after all only the individuals composing it, and it will be only as strong in the aggregate as the combined strength of its individual members; it will be only as strong financially as the combined individual wealth in the group. Reason readily shows us that since the government of any nation is for all the people of that nation or country, the welfare of each citizen is in some measure a concern of all.

The members of society come in such close touch that the individual safety, health and prosperity merges to a great degree into the common safety, the public health and the prosperity of the whole people.

A statesman of not many years ago expressed in words full of meaning the modern idea of government and its functions when he gave utterance to the phrases, now quite familiar: "A government of the people, by the people and for the people."

Wherever and whenever human beings live in groups their actions or conduct one toward another become a matter affecting their peace, happiness and prosperity. It is therefore essential that some rule of action governing their conduct one toward another, the individual toward the group and the group toward the individual, should be adopted. Such rules of conduct must have sanction and must be enforceable that individuals may be protected in their persons and their property; and that their rights—in the language of the Declaration of Independence—"to life, liberty and the pursuit of happiness"



may be fully maintained. For this purpose governments such as ours are instituted.

**The Development of Government.**—The study of the development of governmental ideas is indeed an interesting one. Just as civilizations in ages past have reached high states of development and culture so has governmental forms and ideas, for after all the government of a nation is only a reflection of the civilization which the people of that nation have up to that time worked out for themselves. The development of government has not been one steady growth along one set channel or plan. Just as civilizations of the past have reached a high state of development, flourished for a time and then passed, so also have governmental systems existed, withstood for a time, in many cases worked wonderfully well and then have vanished leaving only their history and traditions to influence the nations of the present time.

So far as we can learn from history the types of the governmental systems of the past varied greatly. From Biblical history we learn of a number of types that existed. The governments of Egypt, ancient Greece, the Roman Empire and those existing in past ages in eastern Asia of which we only get historical glimpses, all differed in their forms, in their essential elements and purposes. We shall not attempt in this volume to delve deeply into those questions but they are mentioned that we may have in mind in these introductory chapters that experiments in governmental systems have been going on throughout all recorded history and future generations may develop entirely different ideas of government from those we have today.

QUESTIONS ON CHAPTER ONE

1. What were the problems which confronted man in his primitive state?
2. What governed his conduct then?
3. Name one of the characteristics of mankind with reference to his fellows. Do lower animals also have this natural tendency?
4. Why was organization probably first found to be necessary? Did organization become more needful or less so as population increased?
5. Suppose a man shipwrecked and finding himself alone on an island, what problems would confront him?
6. Suppose later he is joined by others; what changes would this develop in his conduct?
7. What may be said to be the main three purposes of government? Name two secondary ideas.
8. Discuss the reasons why the three prime purposes of government mentioned are important.
9. Do you think the time near at hand when one nation or people will no longer make war upon another? Why?
10. What three individual rights did the Declaration of Independence emphasize?
11. Discuss the development of governmental ideas in the past.
12. What can you say of the forms or types of government that were in use in ancient civilizations?

QUESTION FOR DEBATE

Resolved; That the League of Nations (as proposed in the treaty of Versailles) was the best plan yet advanced for world peace.

## CHAPTER II

## FORMS OF GOVERNMENT

**The Patriarchal Form.**—One of the earliest forms of government of which we have a record was the patriarchal or family. So far as we know this form was not extensive nor is it notable because of the numbers of peoples who lived under it. But it is of interest to show the origin of our governmental ideas and because some of its essentials exist in our moral codes today and is reflected in parts of our laws touching our domestic relations.

It rested on the reverence of the children for the father and the patriarch or head of the family exercised his government not only over his own sons but over their families and over all his direct descendants so long as he lived. An example of this form is given in the Bible in the records of Abraham, Isaac and Jacob. One author\* in discussing this early form of government says: "The governing authority was exercised, therefore, by the oldest living male from whom all the other members of the family were descended. When he died, his descendants would divide into as many families as he had sons." So long as the families dwelt together after the death of the father the eldest son, by right of birth, exercised control over the group.

**The Tribal Form.**—Government by clans or tribes was an easy transition from the patriarchal, as large families and family groups—related by blood kinship—naturally collected together or near each other. Where the occupation was chiefly pastoral the tribes were more or less nomadic, moving about from place to place according to where the best pasturages for their herds and flocks were found.

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\*Prof. Walter Denton Smith in his work on Elementary Law.

**Feudalism.**—Feudalism, to be exact, was not a form of government but contained many of the essentials, and it is mentioned here because of its influence on many English and American laws. It flourished in the middle ages and existed mainly in Central Europe. Under it all the lands were owned by the King, he claiming by right of conquest. The main characteristic feature of feudalism was the *fief* or a piece of land held, rent free, by the tenant; but in exchange for the usage of the land and the protection given him by his over-lord the tenant was to render some service when called upon. Sometimes this service was fighting in the wars that were almost constantly being waged. As the fighting was done principally by knights this service was called “knight service.” Feudalism was a system in which existed a number of grades or ranks. A section of the country might be ruled by a baron under whom were many knights and other tenants, and this baron with a number of others would owe allegiance to and be vassals of some higher over-lord, duke, prince or king. Some authors do not mention feudalism as a system of government, but treat it merely as a system of holding or owning lands. But it was a system which in its own peculiar way provided the framework for the exercise of the powers of government. It was introduced into England by the Norman Conquest and became so firmly rooted that it existed there for many years. Some of its characteristics are reflected even until this present time in parts of our “common law.”

**The Monarchy.**—Monarchies are divided into *absolute* and *limited* according to whether the reigning monarch or sovereign has unlimited or limited powers. The absolute or unlimited monarchy is sometimes called a *despotism*, as the ruler has despotic power. Constitutional monarchies are those in which there has been a limitation of the sovereign’s powers by



granting to the people a constitution, either written or unwritten, by which they have some measure of participation in administering the government. As a form of government monarchies have existed in Europe and Asia for centuries but there has been a gradual changing from the absolute to the limited form.

The history of government in those countries has witnessed some notable uprisings and struggles of the people to wrest from the tyrants redress of their wrongs, for it is quite evident that unlimited governmental powers in the hands of one person would oft times be used for selfish aggrandizement, the satisfaction of whims of his own or of his favorites and the cruel punishment of offenders, all tending to the oppression of the people. Standing out as landmarks of this kind are *Runnymede* (where in 1215 the English people forced King John to grant them certain privileges and concessions called Magna Charta), the *French Revolution*, and the *American Revolution*. Other evidences of changes in more recent years are the revolution of the people of Russia, overthrowing an absolute monarchy and establishing or attempting to establish a government by the people, the change in China from monarchy to republic and the "Young Turk" uprising in Turkey.

Among the civilized nations of the world *absolute* or *unlimited* monarchies are passing out of existence and the trend of government in those countries still styled monarchies is toward constitutional monarchies in which the people enjoy great liberty and freedom, or to republics in which the governmental authority is vested inherently in the people.

The monarchies of the world are mostly hereditary, that is, the monarch or king being succeeded by his own son (or daughter, in some instances, if he has no son). Some monarchs claim they rule by Divine right and are responsible only to God. This idea was accepted in times past without ques-



tion by the people but in these modern times they are not willing to believe that the conduct of kings is, any more than others, sanctioned by the Ruler of the Universe.

Before passing from the subject of monarchies another form of government should be mentioned and that is the *Aristocracy*, "a rule of the best." This form has existed in different countries at various times and was one in which the governmental authority was vested in a ruling class, limited in number, known as the Aristocrats. It does not exist today as a separate form of government but it is reflected in most of the monarchies of the world.

**Republics and Democracies.**—A pure democracy would be a government administered by the people themselves, where all the citizens took direct part in making the laws; but manifestly such would be impractical where any considerable number of citizens form the groups or State. A *democracy*, as the term is generally used, means a government in which the power lies inherent in the people, and in which the general plan of government is established by them. The power to provide the details and work out the laws to be enforced is delegated to representatives of the people as a practical matter of convenience. Such a democracy is called a republic.

Most of the countries in the Western Hemisphere are republics. Canada, which is a part of the British Empire, is the most notable exception and the people of Canada enjoy almost as much liberty in the exercise of governmental affairs as do the people of the United States. The representative democracy or republic is essentially the modern idea in government, though democracy is no new experiment. As early as 500 B. C. it was manifesting itself in governmental ideas by the acceptance in Athens of the laws and reforms advanced by Solon and also by the effort of the Romans when they banished their kings; and the common people, after considerable strug-

gles and contests with the aristocratic forces, gained privileges and rights to a marked degree. For some time following this a portion of the populace, the *Cives Romani* or Roman citizens enjoyed rights and privileges equal to those in the most modern states.

In concluding this chapter on the forms of government it is considered advisable to call to the attention of the student that not in every instance do we find the name or nominal form corresponding to the actual experience of the people in their progress in government. For example we have only to cite the case of England and Mexico. The English people, though living under a monarchial form of government, enjoy greater privileges and more directly influence affairs of state than do the people of some of the republics in the Western Hemisphere.

#### QUESTIONS ON CHAPTER TWO

1. Name five forms of government that have or do now exist.
2. What were the characteristics of the Patriarchical form?
3. Do you think its general idea was good or bad?
4. What was the main characteristic of Feudalism?
5. Did the people own the lands they cultivated?
6. Into what two general classes are monarchies divided?
7. Which one of these now practically no longer exists?
8. In the changes from despotic forms of government what three great landmarks of history do we note?
9. What is meant by an hereditary monarchy? An aristocracy? Divine right of Kings?
10. What would be a pure democracy? Is a pure democracy practicable? Why?
11. What form of government have most of the countries of North America and South America? Give a notable exception.
12. Who was Solon? Where and when did he live?
13. Do governments sometime differ more in name than in substance? Give an example.

## FOR RESEARCH AND DISCUSSION

Find out what peculiar privileges or rights were held by a Roman citizen about the beginning of the Christian era.

Discuss the government of the Israelites under the leadership of Moses, bringing out its main characteristic as to form, its effectiveness, and in what way after passing to the leadership of Joshua did it function in some respects similar to modern governments.

## CHAPTER III

THE UNITED STATES: A REPUBLIC FORMED BY A UNION  
OF STATES

**How the Union was Formed.**—A brief review of the formation of the Union between the original American Colonies, giving the main causes, the dominant idea of government existing in these colonies, and the difficulties met by them in sufficiently harmonizing their variances in the final consummation of the compact, will aid the student of government to get a more comprehensive viewpoint in the study of the government of the United States as a national entity, and the government of any of the several states as a sovereign commonwealth. It will also cause the student more readily to appreciate the extent to which the National Government functions and the scope in which the powers of the state are sovereign.

It is assumed that the student is already familiar with the history of the settlements of the thirteen original colonies. It will be recalled that there were marked differences in opinion as to matters of religion, customs and laws as held in some of the New England colonies and in some of those further south. The Puritan of Massachusetts and the Cavalier of Virginia and Maryland had each left his impress on the public opinion of his section.

Had it not been for that elemental cause, providing for the *common defense*, which had been thrust upon them by Indian depredations and the Revolutionary war, these colonies probably would not have formed their compact and launched the new nation as a united federal republic until many years later.

**The First Attempt at a Centralized Government.**—The first step in forming a Union or a confederation of the colonies, after their independence was won, was the Articles of



Confederation; but this plan failed from its own weakness. It provided a theory and plan of national government without providing for the necessary power to enforce it. However, considered as a first effort at establishing a centralized republican form of government with specific powers and means to enforce its mandates the Articles of Confederation, after all, was a document of which its framers might feel proud, for it must be remembered that though the people of England were even at that time enjoying a considerable measure of constitutional liberties, yet England did not have and has never had a written constitution. So when the American colonies through their leading statesmen and their representatives in the Continental Congress undertook to formulate some sort of a written constitution they had but little in the way of precedent to follow, except such documents as colonial charters and state constitutions framed for the most part after the independence of the colonies.\*

But the statesmen of that day saw the main defects in the Articles of Confederation and set about framing an instrument which when put into effect, would confer upon the central government the powers essential to its own existence and providing means for raising revenue and enforcing its laws when they should be enacted.

**The Constitution of the United States.**—The result was, our National Constitution was framed in 1787 and in the convention which prepared it were the leading statesmen of the time. A prominent figure in the convention and one whose wisdom, philosophy and broad experience was of great value to the work in hand, was Benjamin Franklin. George Washington was also a member and was the presiding officer of the

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\*It must not be understood however, that the members of the Continental Congress had no guides or aids. They studied a number of available books on the history and government of nations.

convention. A problem in the convention was agreeing on a basis of representation, or just how many representatives each of the thirteen colonies should have in the law making part of the new government. The delegates from small states objected to a representation based wholly on population and the larger states advocated the idea that the new government was to be one of the people and not of the states, and that each state should be represented by a number of representatives in accordance with the population of the state. The Constitution, as will be seen, was a compromise between these two contentions. The national House of Representatives is based upon population and the representation in the Senate is by States. There were other differences of opinion which had to be compromised but the above covers the most important one and it is still in evidence in the present form of the National Constitution.

While the entity and integrity of the new national government was provided for, and direct participation by the people established, in that representatives to the more numerous branch of Congress should be elected directly by the people, yet there was a preservation of state sovereignty in all functions not expressly delegated to the Federal Government. So we find the United States, as the name so clearly implies, a union of states forming a Federal Republic. The American people believe our government is the most advanced and best developed form of government yet devised by man, and under its beneficent provisions the people enjoy the greatest possible measure of liberty, protection of life and property and opportunity for happiness, peace and prosperity. The Constitution became effective when ratified by the requisite number of states (9) in June 1788, but it was not until April 30, 1789, that all preliminary measures were completed, the first presi-

dent inaugurated and the new government set in actual operation.

**Few Changes.** — The Constitution itself has been amended in but few particulars. The great development in our transportation facilities and the wonderful growth of the country has served to unify the nation as it expanded, and there is a national spirit as well as the construction by the courts of the Constitution and laws which tend to cement the people into a national whole. Then, too, the right of a state to secede from the Union has been denied and tested out in the arbitrament of war, so that the question has been forever settled that the Union is an indissoluble one.

There are certain state rights, however, which have never been denied the states and with these matters the state deals as a sovereign and its decisions are final. Some of these will be discussed in the succeeding chapters in this volume.

#### QUESTIONS ON CHAPTER THREE

1. How many American Colonies united in forming the United States of America? Name these colonies. Were there many differences among them in customs, laws and religious beliefs?

2. What prime need brought the colonies together at first?

3. What was the first agreement for a united government called? Why did it fail?

4. Name two prominent members of the Constitutional Convention.

5. What was one of the first problems faced in framing the Constitution?

6. Which of the two conflicting ideas was favored by the smaller states?

7. What was the compromise agreed upon?

8. How many states were required to ratify the Constitution before it was to go into effect? When did this occur? When did the new government actually begin to operate?

9. What has aided in unifying our nation notwithstanding its rapid expansion over a large area?

10. Can the United States be dissolved? Have the individual states any sovereign rights or powers?

FOR DISCUSSION BY CLASS

Can any evidences be pointed out that the Constitution of the United States has proven a successful framework for our government?

FOR RESEARCH

Find out who suggested that the sessions of the Constitutional Convention be opened with prayer. He was the same member who in the closing hours pointed to a carved representation of the sun on the chair of the president and remarked: "Who can foretell whether that is significant of the rising or the setting sun of American Liberty?"



## CHAPTER IV

## FEDERAL JURISDICTION AND STATES RIGHTS

**Powers Granted the Federal Government.**—Certain specific powers were granted to the Federal Government under the Constitution, and the courts have from time to time so construed the Constitution as to imply the granting of other powers necessary to carry out the functions of a central or federal government. Some of its specific powers are:

To levy and collect taxes, duties, imposts and excises; but the same must be uniform throughout the United States.

To borrow money on the credit of the United States.

To regulate foreign commerce and *interstate* commerce.

To regulate the naturalization laws.

To coin money and fix standards of weights and measures.

To establish postoffices and post roads.

To declare war, raise and support armies and provide and maintain a navy.

To make treaties with other nations.

Some powers expressly denied to the Federal Government are:

The passage of any *bill of attainder*<sup>1</sup> or *ex post facto*<sup>2</sup> law.

The suspension of the writ of *habeas corpus*<sup>3</sup> (except in times of invasion or rebellion when the public safety may demand it).

The levy of any tax or duty on articles exported from any state.

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<sup>1</sup>A *bill of attainder* would be a law which would permit the penalties of conviction for crime to apply to the posterity of the criminal or effect their right of inheritance.

<sup>2</sup>An *ex post facto* law would be one which would make an act a crime after the act had been committed.

<sup>3</sup>The writ of *habeas corpus* is used to give a person an immediate or speedy hearing as to the causes of his imprisonment, or to see if he is legally held.

The granting of any title of nobility.

Some powers expressly denied to the states are:

The making of any treaty or alliance with any foreign state; coining money, emitting bills of credit or passing any bill of attainder, *ex post facto* law or law impairing the obligation of contracts or granting any title of nobility.

It will be seen that some of the powers denied the states were also denied the Federal Government while others expressly denied the states were expressly granted the Federal Government.

**The Rights of the States.**—The States' rights are supreme in all matters within their own borders over which the Federal Government has not jurisdiction, or which has not been expressly denied the states. For example, the Federal Government was granted the power to regulate *interstate* commerce, that is commerce between one state and another, but *intrastate* commerce, or commerce wholly within the state's borders, is under the state's jurisdiction and Congress has no powers over it.

It is contended by some writers on civil government that the states have no sovereign powers because the people of the United States could, by amending the United States Constitution, force any kind of law on any of the states. This interpretation of the spirit of our government is also adhered to by some of our statesmen who favor a strong centralized government; but other statesmen, particularly Democratic leaders, hold to the view that the states' rights are sovereign in all matters not expressly denied to them or expressly granted the Federal Government by the provisions of the Constitution of the United States, to which of course all the states of the Union have assented. There is a fine field for study and research on this particular question for the student of civil government.

Some of the states have developed problems which they very strongly desired to settle entirely alone and without any interference from the Federal Government. Such was the case with the Southern States on the question of slavery prior to the Civil war. Such is the case with California in her troubles with the Japanese who have settled within her borders in considerable numbers.

**The Sovereignty of the States.**—The development in our own American government demonstrates, of course, that in the powers reserved to the states and in the exercise of which we like to speak of the state as sovereign, that the state is a sovereign in those particulars until some portion of those powers are taken away. This seems contradictory on first thought for we may say how can a state be sovereign and yet have part of its power taken from it? The answer is that our Federal Constitution, though much stronger than the Articles of Confederation, was realized to have possible weaknesses and should be subject to amendment. So in framing the Constitution the representatives of the original colonies provided a plan for changes to be made. These changes could include the granting of further powers to the Federal Government at the expense of curtailing the powers of the states; but it also must be kept in mind that through the same methods of amendment provided the Constitution might be so changed as to curtail the powers of the Federal Government and increase the powers of the states. Though no such amendment has been adopted yet it is entirely possible—by the regular means provided in the Constitution itself—for an amendment to be proposed, submitted and adopted which would strip the Federal Government of practically all of its powers and reconvey those powers to the states. Therefore the argument that a state is not a sovereign in any sense because any of its powers may be taken from it and given over to the Federal Government,



may well be answered that by the same token the Federal Government is in no wise sovereign for any of its powers may be taken from it when three-fourths of the states determine to do so.

A sensible viewpoint to take of the question of states' rights and Federal Government powers, it would seem, would be as follows: First, the states formed a union or compact for reasons then existing; second, certain powers were surrendered to or delegated to the central government in order that it might carry out the purposes of the union or compact; third, the instrument evidencing the compact or union (the Constitution) provided for changes to be made—by the states—which might increase or lessen the powers so granted; fourth, though the question of arbitrary withdrawal or secession from the union has been effectively denied, the original theory of a national government drawing its powers from grants of authority by the states remains unchanged.

We must keep in mind, however, that while the theory of our governmental system has not changed, the development of our great country, the cementing of our people together by ties of commercial relations, rapid transit and rapid communication, makes us now more a united people as a nation than were the people in any one of the colonies at the time the union was formed.

#### QUESTIONS ON CHAPTER FOUR

1. Can you name five of the specific powers granted to the Federal Government by the Constitution?
2. Name three powers expressly denied the Federal Government.
3. Name one power expressly denied both Federal and State Governments. Name one power granted to the Federal Government and expressly denied to the states.
4. What would be an *ex post facto* law? A bill of attainder?
5. What is the function or use of the writ of *habeas corpus*?

6. Why do some writers on civil government contend that the states have no real *sovereign* powers?

7. A sovereign right or power is one exercised by a person or a state which has not been successfully disputed as a matter of right or taken from them by a superior force. With this definition as a guide can you name some power in which the states are sovereign?

8. Which of the two larger political parties appear to favor emphasizing State's rights?

9. Can you give any reasons why the national government should be more strongly centralized during war than in times of peace?

10. Was the original Constitution of the United States finally ratified and agreed to by all of the thirteen original colonies? Were the amendments added since approved by all the existing states before becoming a part of the Constitution?

11. Can you analyze the construction of the Constitution of the United States briefly as to the grant of powers and how these may be increased or withdrawn?

#### FOR RESEARCH AND DISCUSSION

Find out the leading Statesman who favored a strong central government and one who was an ardent advocate of States' rights about the close of the eighteenth century.

## CHAPTER V

## THE GOVERNMENT OF FLORIDA

**Influence of Early Settlers.**—Florida's early settlements were Spanish and the territory was owned by Spain when purchased by the United States in 1819, some years after the establishment of the United States Government. Though the Spanish settlements left their impress in some few parts of the State and Spanish types and customs are still reflected to some extent in these communities, yet it is remarkable how any evidence of governmental influence of these Spanish settlements seem to be almost entirely missing from the present constitutional and legislative enactments of Florida. The influence of the English speaking settlers, who early came to Florida from the other states with their English customs and traditions and new American ideas, were the dominant influences in shaping the government of Florida even from before the time it became a state in 1845.

**The Constitution of Florida.**—The present Constitution of Florida was adopted August 3, 1885, by a Constitutional Convention which assembled in Tallahassee, the capital. It was ratified by the people at the general election held in November, 1886, and went into effect January 1, 1887. It is referred to as the Constitution of 1885.

Like nearly all written constitutions ours has a preamble setting forth the salient reasons for its adoption. It is similar in form to the preamble of the United States Constitution, but it will be noted that the phrase "provide for the common defense" is not included, this function being one assumed by the Federal Government. The phrase "grateful to Almighty God for our constitutional liberty," appearing in the State Con-

stitution's preamble is a feature which does not appear in the United States Constitution.

Also, like most written constitutions it is prefaced with a "Bill of Rights" or a declaration of certain inalienable rights of the people within its jurisdiction. These rights are in part broad declarations of principles such as the opening sentence: "All men are equal before the law—," and "All political power is inherent in the people." Some are specific enumerations of privileges as "The right of trial by jury shall be secured to all, and remain inviolate forever." Other provisions of this declaration take the form of express denials of powers to the government.

Standing out prominently in this Bill of Rights are the provisions referring to religious liberty, separation of church and state, preserving the writ of *habeas corpus*, preventing unusual punishments, trial by jury, freedom of speech and of the press, preventing any bill of attainder or ex post facto law or law impairing the obligation of contracts, and the subordination of the military to the civil power.

**The Declaration of Rights.**—The Declaration of Rights is such an important part of our Constitution that it is wise for us to pause to examine somewhat in detail some of its provisions. The first great principle it enunciates is that "all men are equal before the law." This means that the protection of government is to be enjoyed equally by all and neither wealth, position nor distinctions of any kind entitle a person to more or less of the protection of his government or rights of enjoyments under it. It was no doubt this principle of government which the author of the Declaration of Independence had in mind when he wrote into that immortal document "——all men are created equal." In some countries one person may by right of birth be entitled to distinction or privileges in the government not enjoyed by others. It is not so in ours.



Inalienable rights are those which cannot be taken away from us. Among those enumerated are defending life and liberty and acquiring, possessing and protecting property. We may defend our lives to any necessary extent, provided we take reasonable precaution to avoid the danger and avert the necessity. We may defend our liberty with reasonable force or invoke the aid of the law to gain it. Of course the right to life or liberty may be forfeited by the commission of crime. The same may be said of the right of property.

**All Political Power Is Inherent in the People.**—This principle in the bill of rights means that the powers of government are vested in the citizens. They may alter their government whenever they desire. There are orderly processes provided for making changes and for ascertaining and recording the will of the people.

**The Right of Trial by Jury.**—This is a right which is guaranteed to all but it does not mean that a jury trial can be demanded for every minor question which might be necessary to determine by some agency of the government. Violations of city or town ordinances are usually tried by the mayor or city judge, without the aid of a jury. The cases in which a trial by jury might be had at the time our Constitution was written is the class of cases in which this right was guaranteed and made inviolate by the Constitution.

The courts are open to all, and for every injury done to one's person, lands, goods or reputation he shall have remedy, by due course of law.

**Religious Freedom.**—The Constitution grants free exercise of religious worship. One may have whatever religious belief he may choose, so far as the government is concerned, but this does not permit immoral or licentious conduct under the guise of religious belief. For example, a man might claim



his religion included polygamy, or having more than one wife, but our laws would not permit him to exercise that portion of his creed. While the greatest religious freedom is permitted and great respect for the churches and religion is everywhere evidenced in our laws, the government must be absolutely impartial between churches or creeds. So the government is prohibited from giving preference or money to any church, sect or religious denomination or institution.

**The Writ of Habeas Corpus.**—This is one of our most valuable rights for without it a person might be thrown in jail and kept there indefinitely on frivolous or trumped up charges. In simple language this right is to “have the body” of the person imprisoned brought, without delay, before a proper court to determine if he is held without probable cause. Excessive bail is prohibited, otherwise the right of habeas corpus might be made of no effect. There are some crimes for which a person on trial is not entitled to bail. These are crimes of which a person found guilty might be punished by death.

**Rights of the Accused.**—When on trial for crime the accused has the rights guaranteed to him of a public trial, an impartial jury, to be fully informed of the charge against him, to be heard by counsel, and to meet the witnesses face to face.

He can not be tried twice for the same offense. This is to prevent a person being harassed by again and again facing the same charges. We frequently hear of a person convicted having a “new trial,” but this is when some mistake has been made, and the first trial is for a reason set aside as though it had never occurred. No man can be forced to testify against himself in a criminal trial.

**Freedom of Speech.**—Freedom of speech, spoken or written is one of the liberties specifically guaranteed to us. We may freely speak and write our views or sentiments on all

subjects but this is a right which must not be abused. We must not in exercising the right do injury to others.

We are also given immunity from imprisonment for debt.

**Ex Post Facto Laws and Bill of Attainder.**—The bill of rights expressly forbids the passing of any *ex post facto* law. This would be a law making an act a crime after the act was committed. No law the violation of which would be punishable or which would effect the vested rights of individuals can be made retroactive in its effect. Neither can any bill of attainder be passed. Such a law would be one that would transmit the punishment for crime to the decedents of the criminal, for example abridging the rights of the children to inherit.

No law can be passed to impair the obligation of a contract. The right to contract and have contracts sacredly kept and faithfully observed is one of ancient origin, and the government may not intervene by any law to relieve a person from performing his contract. It must not be understood, however, that persons may contract with each other to do anything they please and be protected in the doing of the thing merely because they considered it a contract. A person could not enter into a valid contract to commit a crime or to do that which public policy would prohibit.

**Boundaries and Divisions.**—The boundaries of the State as outlined in the Constitution are as follows: From the mouth of the Perdido river up the middle of the river to where it intersects the Alabama boundary and the thirty-first degree of north latitude; thence east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river, thence straight to the head of the St. Mary's river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the

edge of the Gulf stream; thence southwestwardly along the edge of the Gulf stream and Florida reefs to and including the Tortugas Islands; thence northeastwardly to a point three leagues from the mainland; thence northwestwardly three leagues from the land to a point west of the mouth of the Perdido river; thence to the place of beginning.

The boundary lines between the State and the States of Georgia and Alabama are established by markers, of fairly permanent character, and are easily determined by citizens who own the lands along the border lines. The river borders are, too, easily determined as it is simply the middle of the streams.

The borders on the Atlantic and Gulf are not quite so definite but since the conduct of men on the "high seas" is regulated by maritime laws and comes generally under the jurisdiction of the Federal Government, there are but few questions that ever arise as to just how far out from land the State's jurisdiction extends.

The political divisions of the State are the counties. At the time the Constitution of 1885 was adopted there were forty-one counties but the Constitution provided for the creation of new counties by the Legislature and twenty new ones have been created, making sixty-one at this time (1921). New ones may be created at any session of the Legislature.

#### QUESTIONS ON CHAPTER FIVE

1. What people were the early settlers of Florida? When did the United States acquire Florida? Does our present State Constitution and laws seem to reflect much of the laws and customs of our early settlers? When did Florida become a State?

2. When was our present Constitution adopted? When ratified? When did it go into effect?

3. What is the "preamble" to the Constitution? What difference do you note in the preamble to the United States Constitution and that of Florida?



4. Does the Florida Constitution contain a "Declaration of Rights?" Name two broad general principles it enunciates.
5. Name some of the rights specifically enumerated.
6. What do you understand by the declaration that "all men are equal before the law?"
7. What is meant by the statement that all political power is inherent in the people?
8. Can you mention some good reasons for trials by juries? Suppose a man is arrested for driving a car faster than the city ordinance permits, can he demand a trial by a jury?
9. Discuss the rights of religious freedom as guaranteed in the Constitution. Could the Legislature appropriate money to keep up a church school or denominational college?
10. What is the purpose of a writ of habeas corpus? Do you think this right a valuable one? Why is excessive bail prohibited? What crimes are not bailable? Can you give a good reason for these exceptions?
11. Name some particular rights of a person on trial charged with a crime?
12. What limitation is there on our right to freedom of speech?
13. Can you have a person arrested and sent to prison merely because he owes you a debt?
14. What is an *ex post facto law*? A bill of attainder?
15. Should a person carry out a contract he has made although he finds he will lose money? Could the Legislature pass a law to release a man from a contract with another person? Could two persons make a legal contract to commit robbery?
16. Give the boundaries of Florida.
17. What are the political subdivisions called and how many are there?

## CHAPTER VI

## THE THREE DIVISIONS OF THE GOVERNMENT

**The Constitution as a General Plan or Pattern.**—A constitution is the general plan of government and provides for the enactment of laws to make the plan operative and to put its principles in force and effect. There must be a body for making the laws and such is known as the Legislature. Then the laws must be enforced and applied: This is the function of the Executive or Administrative Department. And when questions arise as to what is the law and how it shall be interpreted a third department of government, known as the Judicial Department performs that function. So we have the three distinct departments: The Legislative or law-making, the Executive or law-enforcing and the Judicial or law-interpreting.

This theory of a division of powers of government was the result of the experiences of our forefathers through centuries of oppression by kings or governing agencies. These experiences clearly pointed out the danger of concentrated governmental powers; to avoid this danger a system based upon a division of powers between co-ordinate branches was worked out.

We shall proceed to the study of these three departments of the government, taking them in their logical order, first the Legislative, second the Executive or administrative and third the Judicial.

**The Three Divisions of Government.**—The governmental powers we see then, are divided into three distinct and co-ordinate branches, each branch having its own peculiar function. These branches, with their main sub-divisions are given in the following outline:

(1) LEGISLATIVE	{ Senate { House of Representatives
(2) EXECUTIVE	{ Governor { Secretary of State { Attorney General { Comptroller { Treasurer { Superintendent of Public Instruction { Commissioner of Agriculture { And other administrative officers and boards
(3) JUDICIAL	{ Supreme Court { Circuit Courts { Criminal Courts { County Courts { County Judges' Courts { Justice Peace Courts

The Legislature is the law-making branch. The Constitution is an instrument or document, the purpose of which is to give a general plan of government. It is the function of the Legislature to enact all needful laws to govern the affairs of the State and the conduct of those within its borders. These laws, however, if merely enacted would be impotent and useless without some means of enforcing them and the most beneficent laws would be unfruitful without being administered. The function of law enforcement and administration belongs to the Executive Department.

Often times there is a doubt or question raised as to just what the law means, or what is the proper interpretation of the law. This function is peculiar to the judiciary or the courts which form the Judicial Department of the government.

The three branches are correlated but co-ordinate. That is, they are related and necessary each to the whole, but each is independent of the other as to inherent powers and duties.

**Our System of Checks and Balances.**—The framers of the Constitution of the United States were quite evidently afraid of delegating too much power to some one official or



group of officers. The throwing off of tyrannical government was a fight too dearly won to make the mistake of setting up a new form of government which would permit those abuses again to creep in. So the question of how best to check one official or department from becoming too powerful, and the problem of properly balancing the departments so that one would check or offset the other in any effort to usurp powers not delegated to it, was given much thought by our early statesmen. As our State Constitution reflects or copies the solutions adopted in the National Constitution and the early State Constitutions, what is said of them will likewise apply largely to our own. Jefferson, Madison, Locke and Paine were noted statesmen and students of government and their writings assist us in catching a glimpse of the problem as it presented itself to those and other statesmen of their day, a time which might be referred to as the period in which our plan of a constitutional republican form of government was undergoing its most severe trials. In drafting his model of a constitution for Virginia, Thomas Jefferson wrote in his comments on the executive powers, "We give him those powers only, which are necessary to execute the laws (and administer the government) and which are not in their nature either legislative or judicial." James Madison wrote in *The Federalist*: "The accumulation of all powers, legislative, executive and judiciary, in the same hands, whether of one, a few, or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

**Early State Constitutions.**—The first state constitutions adopted by the original colonies after gaining their independence do not all show a successful distribution of the powers or an effective protection of one department against the encroachments of another. In Massachusetts the intention was very clearly expressed in their declaration of rights in these

words: "In the government of this commonwealth the legislative department shall never exercise the executive and judicial powers or either of them; the executive shall never exercise the legislative and judicial powers or either of them; the judicial shall never exercise the legislative and executive powers or either of them: to the end it may be a government of laws and not of men." New Hampshire, Massachusetts and New York effectively worked out the principle in their Constitutions.

**These Principles Now Effective.**—In studying our own Constitution we find these checks and balances worked out in general as follows: The Legislature elected solely by the people—not even a vacancy can be filled by appointment—is granted sole powers to make the laws, limited only by the Constitution. The executive has no power to make laws but recommends to the Legislature the enactment of any laws he deems proper and can check to an extent the passage of laws he deems unwise. The Legislature, however, by a two-thirds vote of both houses may pass the legislation over the executive veto. The judicial can neither legislate nor enforce legislation, but interprets the law. It also defines that which is not in accordance with the Constitution. The Legislature, the executive, and the judiciary are independent one of the other in that each and all are elected by the people. Each department is a check against the other and exercises powers tending to prevent the others from the exercise of arbitrary or unconstitutional powers.

The exercise of powers in either of the three branches of the State government must not conflict with limitations imposed by the Constitution of the United States, which is the *supreme law of the land*.

## QUESTIONS ON CHAPTER SIX

1. What is a constitution and what does it provide?
2. Give the name of the law-making body provided by the constitution.
3. What is the function of the executive department?
4. What part in the general plan of government does the judicial department perform?
5. Name the three distinct and co-ordinate branches of the government.
6. Of what is the legislative branch composed?
7. Name the principal officers in the executive branch. 'Who is the chief executive?
8. What is the highest court in the State called? Name five other classes of courts.
9. What is meant by the three branches of government being correlated but co-ordinate?
10. Why were the framers of the United States Constitution careful to work out a system of checks and balances in the plan of government?
11. What do you understand by our system of checks and balances?
12. How was the principle expressed in the early Constitution of Massachusetts?
13. Suppose a vacancy occurred in the membership of the Legislature could it be filled by appointment of the Governor?
14. What part can the Governor take in legislative matters?
15. What check on legislation does the judiciary exercise?

## CHAPTER VII

## THE LEGISLATIVE DEPARTMENT OF THE STATE

**The Legislature.**—The law making body is called the Legislature and is composed of the Senate and the House of Representatives. When our present Constitution was adopted (1885) it provided that the Legislature should consist of 100 members: 32 Senators and 68 Representatives, but it also provided that every county should have at least one member of the House of Representatives; therefore, there has been one new member added to the number of Representatives each time a new county has been created. There having been sixteen new counties\* created since any reapportionment, we now have 84 members of the House of Representatives and 32 Senators, thus giving 116 members of the Legislature.

A State Senator is elected to represent a Senatorial district and his term of office is four years. A Senatorial district may include only one county or several counties. Each county has at least one Representative and some counties have two.

**How the Senators and Representatives Are Chosen.**—The Senators hold office for four years but one-half the Senators are elected every two years so that in each regular session of the Senate at least one-half of its members have had previous experience as Senators.

The Representatives are elected for only two years. The Senators and Representatives are elected by the votes of the qualified electors at the general election held on Tuesday after the first Monday in November of even numbered years (1910-1912-1914, etc.) and the Legislature meets in regular

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\*The new counties since any reapportionment and the dates they were created are: St. Lucie, 1905; Palm Beach, 1909; Pinellas, 1911; Bay, 1913; Seminole, 1913; Broward, 1915; Okaloosa, 1915; Okeechobee, 1917; Flagler, 1917; Hardee, 1921; Highlands, 1921; Charlotte, 1921; Glades, 1921; Dixie, 1921; Union, 1921 and Sarasota 1921.



session on Tuesday after the first Monday in April of odd numbered years (1911-1913-1915, etc.). If a vacancy should occur by reason of the death, resignation or removal of a Representative or Senator the vacancy is filled by a special election called to be held in the county or district in which the vacancy exists.

**Sessions of the Legislature.**—A regular session is limited to sixty days—Sundays included. Should the Governor deem it necessary, because of some emergency or extraordinary need for the same, he may call the Legislature in special session which may continue for only twenty days and no business may then be transacted except pertaining to the purposes for which the special session was called unless two-thirds of the membership of both branches of the Legislature shall vote to take it up.

Special sessions of the Legislature are very rarely called. Only three have been called within the past thirty years. The first called on account of the necessity for meeting an urgent health situation; the second in 1912, which was called for passing a special law concerning local affairs in the city of Jacksonville. The session called in 1912 remained in session but three days and the expense was met by the city of Jacksonville. The third, in 1918, was called to enact prohibition legislation.

**How the Senate and House of Representatives Are Organized.**—On the day for the session to begin the members of both branches meet in their respective halls\* in the Capitol at Tallahassee at noon and proceed to organize. The Senate is called to order by the president of the preceding Senate, the roll of the "hold over" Senators is called, then the roll of newly elected Senators is called and the newly elected Senators sworn in. A quorum being present, they proceed to organize

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\*The Senate Chamber and the Representatives Hall are situated on the third floor of the Capitol.

by electing one of their number president to preside over the body for the session, and a president *pro tempore* who is also a Senator. A secretary is then chosen, together with other officers and attaches.

While the Senate has been thus engaged the House of Representatives is also being organized. It is usually called to order by the chief clerk of the House of Representatives at the preceding session. He calls the roll of members-elect who, after taking their oath of office, elect from their number a Speaker, who presides during the sittings of the House, and also a Speaker *pro tempore* is elected. A chief clerk and other attaches are then chosen. Both Houses are then said to be organized and ready for business. Before proceeding with any business each House sends a committee to notify the other House, and also each sends a committee to notify the Governor that it is organized and ready for transacting the business of the session.

As soon as practicable each House adopts rules governing its procedure and the committees are named by the presiding officers. Much important work of the Legislature is done by the committees, and the report or recommendation of a committee on a bill referred to it has weight in its passage or defeat, but the committee's action is not final and does not have the weight upon the ultimate passage or failure of the bill as a committee report in the National Congress. There are some thirty or forty committees for each House, some of the more important being the Judiciary, Education, Finance and Taxation, Appropriations, Agriculture, Railroads and Telegraphs, Corporations, Privileges and Elections, Public Health, etc. There are committees for looking after the necessary clerical work incident to handling the pending measures and the process through which a bill passes before becoming a law. The Engrossing and Enrolling committees are of this kind.

Each House is the sole judge of the qualifications of its own members. Each House regulates its own procedure by the adoption of rules and resolutions. Matters of procedure requiring joint or concurrent action by the two Houses are regulated by the joint rules of the session and by concurrent resolutions, a concurrent resolution being one adopted by one House and concurred in by the other House.

**Qualifications of Members of the Legislature.**—The Constitution specifies certain qualifications for members of the Legislature but leaves each House, or branch, of the Legislature to pass upon the qualifications of its members. Senators and Representatives must be residents of and duly qualified electors in the Senatorial district or the county from which they are chosen. If they remove their residence from the county or district during the term for which they were elected it automatically vacates the office. Neither can a member of the Legislature hold any office under the United States during his service as a member of the State Legislature.

Members of the Legislature may not during the term for which they were elected, be appointed or elected to fill any office which has been created or the emoluments of which have been increased by that Legislature. The reason for this is clear. It prevents legislators from creating offices with the hope or intention of filling them themselves or increasing the pay of an office which they anticipate securing by appointment or election before the close of the term for which they were elected to the Legislature.

**Special Powers of the Legislature.**—Either house during the session may punish by fine or imprisonment any person for disorderly conduct or contemptuous actions in its presence, or for refusing to obey its lawful summons.



There are also special inhibitions against actions by one House without the consent of the other. Neither House may adjourn for a longer time than three days, nor to meet at any other place than the State capital, without the consent of the other branch.

**Powers of Impeachment.**—There are officials of the State who may not be removed from office in any way except by impeachment. The House of Representatives has the power of impeachment—that is, the power to prefer charges and demand the trial of such an officer on a complaint which if true would cause his removal from office. The Senate decides whether the officer is to be removed from office. In the event of impeachment proceedings the House of Representatives would prefer the charges, appoint a committee to prosecute them before the bar of the Senate and the Senate would sit as a court to hear the evidence and determine the guilt or innocence of the accused official.

When impeachment trials are had the chief justice of the Supreme Court presides over the Senate, except in case the chief justice might be the official under impeachment, in which case the Governor would preside over the Senate during the proceedings.

While the Legislature is the law-making branch and its functions are primarily and almost entirely legislative, here we see that in the case of impeachments of high officials, and in the case of punishing any person guilty of contemptuous conduct in its presence, or refusing to obey its mandates, the Legislature while in session may under the conditions mentioned exercise functions that are judicial in their nature.

#### QUESTIONS ON CHAPTER SEVEN

1. Of how many members did the Legislature consist as originally planned in the Constitution?



2. Why are there now more than that number?
3. How many members are there now? In which House does the increase take place?
4. How long is the term of office of a State Senator; of a Representative?
5. Are the State Senators all elected the same year? What good reason can you think of for this provision?
6. When are the general elections held? When does the Legislature meet in regular session?
7. How is a vacancy filled in the membership of the Legislature?
8. How long is the Legislature in session at regular sessions? What can you say of special sessions?
9. Give the procedure usually followed in organizing the Legislature at the opening of a session.
10. Name some of the important committees of the Legislature.
11. Who determines the qualifications of a member, or his right to his seat as a member of the Legislature if it be questioned?
12. What can you say about the qualifications of a member of the Legislature?
13. What special powers are granted both branches of the Legislature? What special prohibitions are imposed against both?
14. Discuss the powers of impeachment. Who presides during impeachment proceedings?

Note.—A proposed amendment to the Constitution, which would reapportion the membership and increase the size of the Legislature, was submitted by the Legislature of 1921, and will be either ratified or rejected by the people in the general election held in 1922.

## CHAPTER VIII

## HOW THE LAWS ARE MADE

**The Passage of a Law.**—We are now ready to see how a “bill” becomes a law. All laws which finally find their way to the statute books are first proposed or introduced, either in the Senate or the House of Representatives in the form of a bill. The bill contains the proposed law and has a title which is a brief reference to the subject matter in the bill. The title to a bill begins: “A Bill to be Entitled an Act—, etc.” And it must also contain an enacting clause which reads: “Be It Enacted by the Legislature of the State of Florida.” Without this enacting clause a bill cannot become a law. Following the title and enacting clause the proposed law is set out in orderly arrangement by sections if more than one section is required.

A bill can be introduced only by a member but any member has the privilege of introducing as many bills as he may wish. When a bill is introduced it is read the first time by its title and the usual course for it to take is to be referred to an appropriate committee. The committee, after giving it consideration, which sometimes takes several days or even weeks, returns the bill with their recommendation as to whether it should or should not pass. The bill then takes its place on the calendar of “Bills on Second Reading.” When it is reached in its order it is read for the second time, this time in full unless the rule be waived by a two-thirds vote. If any member desires to offer amendments they are usually offered at this time and if any member opposes the bill and desires to prevent its passage he usually undertakes to defeat it while it is on its second reading. A bill may be amended by a majority vote while on second reading. If a motion “to indefinitely postpone” or “to strike out the enacting clause” should prevail,

the effect would be to kill the bill. If the bill is not "killed" it goes to the Engrossing committee where any amendments that may have been adopted are incorporated in the bill and it is rewritten and examined for errors. When it is returned from the Engrossing committee it goes on the calendar again, this time under the heading of "Bills on Third Reading," and when reached in its order is read again, this time in full, and the roll is called on the question of "Shall the Bill Pass." If a majority of those present and voting vote "yea," then the bill passes and it is certified to the other branch of the Legislature where the same process must be gone through with in that House. When a bill on final passage is voted on the vote must be by roll call and the vote recorded in the journal.

A bill may originate in either House, but must be voted on and pass in both Houses before it is duly *enacted*. After it has passed both Houses it is *enrolled* by the Committee on Enrolled Bills of the House in which it originated, is then examined by both Enrolling committees and is signed by the presiding officer and secretary or chief clerk of each House. The bill is then ready to go to the Governor for his approval or disapproval. He has only five days (except in the last five days of the session) in which to approve or disapprove the *Act*. If he approves he signs it and then it becomes a law. If he disapproves and objects to its becoming a law he may *veto* the measure which he does by returning it to the House in which it originated with a message stating his objection to it.

**The Veto.**—In case of the veto it must then be voted on again and cannot pass unless two-thirds of the members present in each House vote for it, the veto of the Governor to the contrary notwithstanding.

If the Governor does not care to sign a bill, thus giving it his expressed approval, yet does not care to veto its passage, he may permit it to become a law without his approval for it will

become a law if he does not either approve or disapprove it within the time limit.

Unless an earlier time is stated in the bill the Act does not become a law until sixty days after the adjourning of the Legislature. Most bills are now drawn so that the effective clause reads: "This Act shall take effect upon its passage and approval by the Governor."

Subsequent chapters will discuss some of the main questions with which the Legislatures have to deal.

**Attaches\* of the Legislature.**—Each house has its attaches, or corps of clerks and assistants who look after the clerical work of the session, and perform other work incident to a session of a deliberative body. The name and number of these attache positions may be changed at the pleasure of the members at any session, but the usual attaches are: Secretary or chief clerk, assistant secretary or assistant chief clerk, bill clerk, reading clerk, engrossing clerk, enrolling clerk, recording clerk, sergeant-at-arms, messenger, chaplain, doorkeeper, pages and janitors. In addition to these there are stenographers and committee clerks.

A corps of competent attaches greatly facilitates the work of the session. There are always quite a number of applicants for these places and they are filled by vote of the members. The attaches, as well as the presiding officers, are usually decided upon at a *caucus* held by each House the night before the formal opening of the session.

**Publishing the Laws.**—It is a well established rule of the law and the courts that "Ignorance of the law excuses no one." This might appear hard sometimes if no effort were made to acquaint the people with the new laws.

Florida has an excellent provision with regard to giving out the information. Not only are the laws printed in book

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\*Pronounced *Attashays*.



form and may be had at a small cost, but at the close of each session all laws of a general nature are published in a newspaper in each county and mailed to each registered voter in the county. So if a citizen be uninformed as to what the Legislature has enacted in new laws or changes in old ones it is his own fault.

**Constitutional Requirements to Be Met.**—Many of the laws which the Legislature attempts to enact in good faith are found by the courts to be unconstitutional and are declared to be therefore null and void. Sometimes these defects are quite grave and to permit the law to stand as passed would work great injury to the constitutional rights of individuals. In other cases the defects are more or less formal or technical in their nature. So, in framing a measure for passage through the Legislature its author should be very careful to have it conform to the requirements of the Constitution.

While no extended mention may be made of how a bill might be defective, yet some of the plain and more formal requirements of the Constitution will be mentioned. Each law shall contain but one subject matter, and matter properly connected therewith. This requirement the courts have said means one general subject matter and the matters incidental thereto. The subject matter, which is expressed in the title of a bill, may sometimes be quite broad or general in its scope, but care must be taken that it be not too broad or general in its terms. There are certain laws that must be general in their application throughout the State. That is, they cannot be drawn so as to be in force in one county and not in another. State taxes, for example, must be uniform throughout all the counties.

Appropriation bills for the expense of the State Government are not permitted to contain any other matters. The end

doubtless in view there being to prevent appropriations for governmental expenses being tacked on as "riders" to other pieces of legislation.

#### QUESTIONS ON CHAPTER EIGHT

1. When a proposed law is introduced in either branch of the Legislature in what form is it? What does the title contain?
2. What clause is essential in every bill? How does this clause read?
3. Who may introduce a bill in the Legislature? What is usually done with the bill after its introduction?
4. What two motions are frequently made in an endeavor to prevent any further consideration of a bill—or to kill it?
5. When a bill successfully passes in one of the branches of the Legislature what is the procedure it usually follows?
6. After a bill has been duly enacted by both branches where does it then go? What may that official do with it?
7. What is the veto? Suppose the Governor does not disapprove of a measure so much that he wishes to veto it, yet does not care to give it his approval.
8. When does an act of the Legislature after becoming a law usually take effect?
9. Who are the attaches of the Legislature and what are some of their duties?
10. What method is provided for the people to gain knowledge of what laws have been enacted?
11. There is a well established rule of law and of the courts frequently found expressed in the Latin sentence "*Ignorantia lex non excusat.*" What is that rule?
12. What is said of meeting constitutional requirements in enacting legislation?

## CHAPTER IX

## EXECUTIVE OR ADMINISTRATIVE DEPARTMENT

**The Chief Executive.**—At the head of the executive department of the State is the Governor, but there are a number of administrative officers each having in charge the administering of certain affairs of the State. The more important of these are: Secretary of State, Attorney General, Comptroller, State Treasurer, Superintendent of Public Instruction and Commissioner of Agriculture. These six officials are sometimes referred to as the cabinet officers though the Constitution does not designate them as such. In fact under the system of government Florida has adopted, these six officials are more than a mere cabinet for they have more than advisory powers and functions.

As members of the various State administrative "boards" they are potent factors in shaping the administrative policies and managing the institutions and business of the State. These "boards" will be discussed in a later Chapter. We shall now take up individually the officers of the executive or administrative department.

**The Governor.**—The chief executive officer of the State is the Governor and as such he possesses a greater power than is delegated to any other one individual in the State. But under our governmental system of checks and balances his powers are limited and he does not possess the privilege of following purely personal inclinations or desires in carrying on the affairs of government as is attributed to the office in the minds of some citizens. His powers and duties are set forth in the Constitution and in the statutes.

The Governor has great and grave responsibilities resting upon him. The four years he occupies the office is called his

*administration* by those who write the history of the State, and this is because the Governor, as chief executive, is supposed to influence largely the administrative policy of the four years, and often also the legislative policy to some extent.

**Qualifications and Eligibility.**—The Governor must be a qualified elector of the State. That is, he must be a registered voter and have complied with all requirements of voters for being qualified to vote in the general election at which the Governor is to be chosen. He is voted for at the same time and places for voting for members of the Legislature. He must have been a citizen of the United States for at least ten years and a citizen and resident of the State of Florida for at least five years next preceding his election. These restrictions do not apply in case of the President of the Senate or the Speaker of the House of Representatives succeeding to the governorship in the event of a vacancy.

**Term of Office.**—The term of a Governor is four years and he cannot succeed himself in office. He may serve twice as Governor but not in succession. One Governor has served two terms but there were three administrations intervening between his first and second term. But he is not prevented from being a candidate for some other office at the close of his term as Governor.

**His Powers and Duties.**—The Governor is commander in chief of the militia of the State, except when they are called into the service of the United States.

He may require information in writing from the administrative officers of the executive department.

He appoints officers to fill vacancies in office when no other method has been provided by the Constitution.

He may call the Legislature in extraordinary session.



He may suspend the collection of fines and grant reprieves for a period not exceeding sixty days.

He may with the consent of a majority of the Board of Pardons, grant pardons to persons after they have been convicted of crime.

He may require the opinion of the Supreme Court as to the interpretation of the Constitution upon any question affecting his executive powers and duties.

He signs all commissions granted in the name of the State.

He may suspend from office, for cause, any officers not liable to impeachment, the suspension remaining effective until the next meeting of the State Senate. Then if the Senate concurs, a permanent removal is made, otherwise the officer is automatically reinstated.

**The Governor's Duties.**—It would hardly be possible to set forth in such limited space all the duties of the Governor. His chief duty is to see that the laws are executed or enforced, for he is the chief executive officer of the government. He is *ex officio* chairman of many of the "boards" which transact the business of the State and in speaking of the work of these boards the work of the Governor will be included.

The Governor communicates to the Legislature at the beginning of each session by a message giving information on the condition of the State and his recommendations as to needed legislation.

His salary is fixed by the Legislature and is at present six thousand dollars per year. He is also furnished a splendid home, called the Governor's Mansion, which is well furnished and becomes the residence of the Governor and his family during the four years he is in office.

**How a Vacancy Would Be Filled.**—In event a vacancy should occur in the governorship by reason of death, resigna-

tion, impeachment, or otherwise, the President of the Senate succeeds to the office, and in event he cannot serve until a Governor is elected, then the Speaker of the House of Representatives succeeds to the executive office. An election for Governor would be held at the next general election after the vacancy occurred.

**The Executive Offices.**—The Governor has his offices in the Capitol, where his official business is transacted. He is allowed a secretary who is commissioned to hold office during the term of and at the pleasure of the Governor.

**The Secretary of State.**—The Constitution says that the Secretary of State shall be the keeper of the records of official acts of the legislative and executive departments of the government, and “shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature; and shall be the custodian of the great seal of the State. He shall also have charge of the capitol building and grounds, and perform such other duties as shall be prescribed by law.”

In addition to the above the Legislature has from time to time placed important duties upon the Secretary of State. He is State librarian, keeps in his office the election returns and gives certificates of election, attests all official documents signed by the Governor and attaches the great seal of the State to all official papers requiring the same. The detail work of issuing and recording charters for incorporated companies in the State and admitting those of other states to enter Florida for transacting business is looked after by the office of Secretary of State. He publishes the laws enacted by the Legislature, and keeps in his office the original enrolled acts containing the signatures of the legislative officers. He is custodian of the bonds of county officials, and the journals of proceedings in both Houses of the Legislature.

The Secretary of State is a member of the Board of Commissioners of State Institutions, the State Board of Education, the State Board of Pardons, and chairman of the State Canvassing Board.

**The Attorney General.**—Under the provisions of the Constitution the Attorney General is the legal adviser of the Governor, and of each of the officers of the executive department; and is reporter for the Supreme Court.

The Attorney General is of course a lawyer. He is the chief lawyer for the State and his advice is often sought on legal questions by the Governor and other executive officers. Though he is often besought by county officials and private citizens for his opinion on question of law, he is not authorized by the Constitution or statutes to render to them his opinion officially. He frequently gives unofficial opinions, however, as a matter of courtesy. He has general supervision over the State Attorneys and represents the State in the cases appealed to the Supreme Court in which the State is a party. He also represents the State in the United States courts. As the business of the State increases and affairs of State become more complicated, the Attorney General's office is taxed more and more by being called on for opinions relating to the construction of the laws and the duties of the State officials.

He is reporter for the Supreme Court, which means that he indexes and prepares in suitable form for publication the opinions of the Supreme Court and their decisions in all cases heard in that court.

He makes a report to the Governor concerning the operation of the laws enacted by the Legislature and the Supreme Court's decisions relative to them. He makes such recommendations as he deems proper as to needed legislation; and it is the duty of the Governor to lay his report before the Legislature.



The Attorney General is a member of the Board of Commissioners of State Institutions, the State Board of Education, the State Board of Pardons, the State Canvassing Board, the Internal Improvement Trustees, the Board of Drainage Commissioners and other boards.

**The State Comptroller.**—The State Comptroller's office is one of the most extensive departments of the State government. The Constitution says that: "The Comptroller shall examine, audit, adjust and settle the accounts of all officers of the State——;" but in addition to these duties the Legislature has from time to time added to his work. The chief duty of the Comptroller might be said to be the examining and paying of accounts against the State. No moneys are paid out of the State Treasury except on a warrant drawn by the Comptroller which has been countersigned by the Governor. The Comptroller keeps in his office the vouchers or approved bills on which State moneys are paid out.

In his office and under his supervision are the pension department, banking department, tax redemption department, auditing and county finance department, motor vehicle license department and others.

He is a member of the Board of Commissioners of State Institutions, the Internal Improvement Trustees, the Board of Drainage Commissioners, State Finance Board, Pension Board, State Board of Pardons, Foreign Investment Company Board, and the Budget Commission.

He examines and approves the bonds of State and county officers and has wide powers and extensive duties with reference to all claims and accounts against the State and the accounts due to the State.

He keeps accounts against the State Treasurer and all county tax collectors with reference to State taxes; keeps du-



plicate books on file of all taxes assessed in all counties; of the lands sold for taxes and the redemption of such lands.

**The State Treasurer.**—The State Treasurer's constitutional duties are to "Receive and keep all funds, bonds, and other securities, in such manner as may be prescribed by law, and shall disburse no funds, nor issue bonds, or other securities, except upon the order of the Comptroller countersigned by the Governor——." Like all other cabinet officers, however, these duties have been greatly extended. His chief duty, however, is the safe-keeping of the public funds. He gives a large bond for the faithful performance of his duty and handles all the cash and securities belonging to the State as well as large amounts which are deposited with him for the time being as guaranties or securities.

His office is provided with strong safes and secure vaults but aside from the bonds and securities not much actual cash is kept on hand in the vault. Such of the State's money as may not be needed for immediate use is deposited in many banks throughout the State and draws interest. The banks place securities with the State Treasurer to protect the State against loss of this money.

The State School Fund owns several hundred thousand dollars worth of bonds and securities and these are kept by the State Treasurer as the treasurer of the State School Fund. He also has in his custody large amounts of securities belonging to the insurance companies doing business in the State, which securities are required to be deposited with him to guarantee the faithful compliance of the companies with certain insurance laws and the faithful performance of certain of their contracts or policies. He also administers the insurance laws.

The State Treasurer is a member of the Board of Commissioners of State Institutions, the State Board of Education, the State Board of Pensions, the Internal Improvement Trus-

tees and Board of Drainage Commissioners, State Finance Board, and the Budget Commission.

**State Superintendent of Public Instruction.**—Of more interest to the school children of the State than any other officer is probably the Superintendent of Public Instruction. He is head of the school system and the educational affairs of the State. He influences largely the standard of education in the State and the fine work of this officer is reflected in the splendid educational standards in force in Florida.

The Superintendent of Public Instruction is secretary of the State Board of Education and a member of the Board of Commissioners of State Institutions.

He issues a report biennially which contains a large amount of interesting data with reference to the schools of the State; giving the enrollment, attendance, teachers, teachers salaries, value of the school buildings, school equipment, etc. This report reviews the progress of education in the State during the time for which it is issued and has much valuable information concerning the educational system of the State.

He may call county superintendents in convention and teachers in to institutes for obtaining and imparting information on the practical working of the school system.

In the chapter dealing with the Educational System of the State further reference will be made to the important office of State Superintendent of Public Instruction.

**The Commissioner of Agriculture.**—The office of the Commissioner of Agriculture is another extensive department of the State government. He is chiefly concerned with the agricultural and horticultural interests of the State but he has various duties under the Constitution and laws to perform.

He keeps an immigration bureau, has supervision over the public lands and matters pertaining thereto, and has supervision over the State Prison.

The pure food laws and the laws relating to the inspection of fertilizers and feed stuffs are administered from his office. When the State census is taken it is under his supervision and the State census bureau is in his office.

He is a member of the Board of Commissioners of State Institutions, State Board of Pardons, Internal Improvement Trustees and the Board of Drainage Commissioners.

The Shell Fish Department, which is the department that administers the fish and oyster laws, is also under him; and the State chemist's office is in most of its work connected with the office of the Commissioner of Agriculture.

The citrus fruit inspection law comes under the supervision of this office, as does the law relative to standard weights and measures and the inspection of gasoline and oils.

He collects and disseminates agricultural statistics, and other information of especial interest to those who till the soil.

From the above it will be seen that the Commissioner of Agriculture is charged with the administration of much important legislation that directly affects the individual citizen.

#### QUESTIONS ON CHAPTER NINE

1. What official is called the Chief Executive of the State.
2. What six administrative officers are sometimes referred to as the "Cabinet" officers?
3. Does the Constitution refer to them as the Cabinet? What can you say of their importance?
4. What can you say of the powers, duties and responsibilities of the Governor?
5. Why do we speak of the four years a Governor is in office as his "administration?"
6. What qualifications are prescribed by the Constitution for one who is elected Governor? Can a Governor succeed himself in office?
7. Name some of the specific powers that may be exercised by the Governor.

8. What is the most important duty of the Governor?
9. What special duty has the Governor when the Legislature convenes?
10. In what ways might a vacancy occur in the Governor's office? Who would succeed to the governorship in that event?
11. Where does the Governor work? Where does he live?
12. Name two duties of the Secretary of State named in the Constitution.
13. Does the Legislature require other duties of him also?
14. What are the main duties of the Attorney General?
15. What special report does he make to the Governor?
16. What are the chief constitutional duties of the Comptroller?
17. Name several kinds of State business handled by the State Comptroller.
18. What duties has the State Treasurer under the Constitution?
19. What particular class of business corporations does he supervise?
20. Who is the chief school officer of the State? What can you say of his influence on educational work?
21. What are some of the facts given in his report?
22. What are the chief duties of the Commissioner of Agriculture? Name some of the special laws he administers.



## CHAPTER X

## THE ADMINISTRATIVE BOARDS

**The Work of the State Boards.**—As mentioned in a previous chapter there is much of the State's business transacted by "Boards" composed of some or all the cabinet officers. These officers are *ex officio* members of the "Boards" and serve without additional pay.

When the Legislatures in past years began to place new laws and enterprises of the State in the hands of these "Boards" for administration it was a good policy from the standpoint of economy, for instead of creating new offices and appropriating the necessary money for the salaries of additional officers and the expense of new departments, the new work was placed under these "Boards" where it was attended to at a minimum of expense. But as the affairs of the State grew and expanded and the work increased in volume and in new enterprises or new laws to be administered, the time of these cabinet officers has been very heavily taxed with the varied work of these boards, or commissions of which they are *ex officio* members.

A brief sketch of the work of these administrative boards will now be given.

**Board of Commissioners of State Institutions.**—This board is composed of the Governor and six cabinet officers, the Governor being *ex officio* chairman. They employ a secretary who keeps the minutes of their meetings and conducts the correspondence for the board. As the name implies, this board has supervision over all the State institutions. It has direct supervision over the Hospital for Insane, the State Prison Farm, the Industrial School for Boys and the Industrial School for Girls and general supervision over other State in-

stitutions which may be directed in detail by some subordinate board or superintendent. It also has supervising powers over all State buildings and State property not specifically placed in the control of other officials.

Some of the duties of the board, other than those above mentioned, are to make contracts for the State printing, for the State school text books adopted for use under the State Uniform Text Book Law, for insuring the State's buildings and property against loss by fire and for the purchase of supplies for the institutions under its immediate direction.

This Board is recognized as representing the interests of the State in a general way and having charge of such State business that is not specifically placed under some department or other official.

**The Board of Pardons.**—The State Board of Pardons is composed of the Governor, the Secretary of State, the Attorney General, the Comptroller, and the Commissioner of Agriculture. The Governor is *ex officio* chairman and the board employs a secretary for keeping minutes and the record of cases coming before it.

This board hears the applications for pardons, paroles and commutations of sentence. It has the power, the Governor consenting, to grant pardons either conditional or full and free, to parole prisoners, and to commute a sentence. Its functions are not only to correct any manifest error of justice, but it is also empowered to extend mercy where, in the wisdom of its members, it is proper to do so. There are citizens who believe in a liberal use of the pardon power while other citizens believe it should seldom be used, leaving the sentences of the law imposed by the courts to be inexorably executed. Criticism of the actions of the board by persons who do not like its policies usually come from those who are not as familiar with the cases as are the members of the Board of Pardons. A commutation

of sentence is a changing or reduction of the sentence to a lesser degree of punishment. Sometimes sentences of death are commuted to a sentence of imprisonment for life; sentences of imprisonment are sometimes commuted to a shorter term of imprisonment or to the payment of a fine. Pardons, when first granted, are usually "conditional;" that is, the pardon is effective only so long as the pardoned convict lives a sober, peaceable, law-abiding life and abides by any other conditions of its terms and it may be revoked if its conditions are broken. When a person is sentenced to imprisonment in the State prison for certain crimes he loses some of his rights as a citizen, such as voting, and a conditional pardon does not restore the holder to citizenship but a full pardon may be granted by the board which restores the convict to civil rights.

For a pardon, parole or commutation to be granted it must be agreed to by a majority of the members and the Governor must be one of those consenting.

**The State Board of Education.**—The State Board of Education is provided for by the Constitution and is composed of the Governor, Secretary of State, Attorney General, State Treasurer and State Superintendent of Public Instruction. The Governor is *ex officio* its president and the State Superintendent of Public Instruction is *ex officio* secretary of this board. It has power to remove subordinate school officers for cause, upon notice to the incumbent; and has the management and investment of the State School Fund. It has supervision over the State Colleges and Institutions of Higher Education and many phases of the educational laws often come before this board for adjustment.

This board is a very important one as it is the body that has in general charge all our State educational institutions and is in a way the head of the school system of the State.



**The Internal Improvement Trustees.**—This board is composed of the Governor, Attorney General, Comptroller, State Treasurer and Commissioner of Agriculture and its duties are in general to administer the lands and proceeds thereof which were granted to the State by the United States Government for purposes of reclamation and internal improvement. The largest undertaking this board has had is the drainage of the Everglades and providing for the reclamation of this vast expanse of overflowed lands or lands subject to overflow. The board supervises the work of digging the drainage canals and building locks and making surveys of the reclaimed lands. The work is a fine example of that function of government coming under the head of the general welfare. When this great undertaking is successfully finished it will add greatly to the wealth of the State and increase the agricultural and other economic opportunities open to the people.

The same officials compose the State Board of Drainage Commissioners and under the latter name much of the actual drainage work is handled.

**The State Pension Board.**—A pension in its strictest sense is a stated allowance granted for past service to the State. Almost all governments have pensioners who draw of the State's bounty for one cause or another. It is within the province of the Legislature to provide for pensioning such persons as it deems proper. It is the generally accepted custom of the Legislature of this State to pension those old soldiers and the widows of soldiers who served in the Confederate army or navy. The United States pensions those who served in the Union armies during the Civil War, but does not pension those who served in the Confederate armies; therefore most of the Southern States have provided for State pensions to be paid Confederate Veterans and their widows.



Florida's pension laws have been among the most liberal of any of the Southern States. The rates of pay, requirements for applicants to be eligible to receive pensions and levying the tax to provide the funds are functions of the Legislature.

The State Board of Pensions, composed of the Governor, Comptroller and State Treasurer, passes upon all applications for pension to determine if they meet the requirements of the law, and if granted what rate of pay is applicable to them. The State tax, on account of pensions, has been for several years greater than that levied by the Legislature for any other one purpose.

**The State Canvassing Board.**—The Secretary of State is chairman of this board, the other members being the Attorney General and State Comptroller. However, if any one of its members for any reason cannot serve, some other cabinet officer may be called in and serve on the board. Its duties are to canvass the returns and declare the results of State elections. Their findings are filed with the Secretary of State.

**The State Board of Control.**—Some years ago when the Legislature undertook to consolidate, improve, and enlarge the colleges and institutions of higher education there was created the State Board of Control, which board has duties connected directly with the detail supervision of the University and State colleges. Its members recommend the faculties of the colleges, supervise the expenditures of the appropriations made to pay the expenses of the institutions of higher learning, prepare recommendations to the Legislature as to the needs of the institutions and otherwise have in hand the interests of the institutions of higher learning which are supported by the State.

**State Plant Board.**—The membership of this board is the same as that of the State Board of Control, and they are

charged with administering the laws relative to protection of our great horticultural interests. For example, the State and the grove owners have spent thousands of dollars in fighting citrus canker and other dangers to the orange groves and other citrus fruit trees. Other plants and trees also require protection. The national government expends money to assist in this work and it is all done under the supervision of the State Plant Board.

**The Live Stock Sanitary Board.**—The live stock of the State need protection as well as the plant life. There are laws which prevent the shipment of animals or dressed meats from one state to another without certain inspection tests are met. Live stock are also subject to diseases to which they fall as a prey in great numbers. The Live Stock Sanitary Board has the administering of the laws designed to stamp out the cattle tick, hog cholera, etc.

**State Board of Health.**—This is one of the most important of the State Boards and as its name implies, is charged with protecting the health of the people. So important matter as the public health will be discussed in a separate chapter and the duties of this board discussed therein.

**State Budget Commission.**—The expenditure of public funds has ever been the subject of more or less criticism. Since governmental agencies cannot be built up along the same lines as private business there is not always the economy practiced in public affairs as there might be. The expenditures in the several departments of the government have not been coordinated as much as might have been, so the Legislature recently provided a Budget Commission. The duty of this commission, which is composed of the Governor and two of the cabinet officers, is to work out a budget, or systematic plan of the needed expenditures for the State and submit this plan or

budget to the Legislature as a basis for intelligent action in making appropriations.

**State Finance Board.**—This board is composed of the Governor, Comptroller and Treasurer. It deals with general financial questions that arise in which the State is a party or in which some problem effecting the State must be worked out.

**Foreign Investment Board.**—Laws regulating the sale of foreign stocks and securities within the State have been passed in many of the States and Florida has such a law. Its administration is in the hands of the Comptroller and the Attorney General and they are when acting in that capacity known as the Foreign Investment Board.

**The State Road Department.**—The building and improving of public highways, for long years left to the counties, is now being given much attention by the State. This work is entrusted to the State Road Department. This department is supervised by a commission of five members appointed by the Governor. One is appointed from each Congressional district and one from the State at large. These members choose one of their number as chairman who is known as the State Road Commissioner and devotes his entire time to the big task the State has undertaken in the way of public road improvement.

**A State System of Highways.**—The State Road Department has mapped out a number of highways which will form the main or trunk line highways of the State and will construct improved or hard surfaced highways in accordance with this State-wide system. The counties are supposed to construct or maintain the connecting roads or those known as county public roads, and also to assist in the construction of the main State highways. The national government also as-



sists to a certain extent in the improvement of the public roads and highways.

There is scarcely any public improvement which has so important place in the development of a State as that of its public roads. In this age of rapid transit when the motor vehicle is supplanting the horse-drawn carriage or wagon, hard surfaced highways have become a necessity. Improved highways are second only in importance to the railroads in the development of a state or nation.

**State Marketing Bureau.**—An important aid rendered the public by the State is maintaining a State Marketing Bureau which compiles information of interest alike to producer and consumer. It is of great assistance to producers in finding markets for their products, particularly the perishable products which must find ready markets or be entirely lost.

**Other State Boards.**—There are other bodies or commissions created by law either for some temporary purpose or for some restricted function and which are not separately discussed. The name usually indicates their purpose; such for example as the Board of Medical Examiners. It will not be necessary to take these up in detail as any well directed inquiry will gain any necessary information concerning them.

#### QUESTIONS ON CHAPTER TEN

1. What officers make up the personnel of the administrative boards?
2. What are the main duties exercised by the Board of Commissioners of State Institutions?
3. What is the chief duty of the Board of Pardons?
4. What two kinds of pardons are granted? What is a parole? A commutation of sentence?
5. What is necessary in order for a pardon to be granted?
6. What particular powers has the State Board of Education with reference to school officials? What connection has it with the colleges?



7. What are the duties of the Internal Improvement Trustees and what is the largest single undertaking they supervise?
8. What is a pension? What can you say of Florida's pension laws? Who receive pensions from the State?
9. What does the State Canvassing Board do?
10. Discuss the duties of the Board of Control.
11. What is the purpose of the Live Stock Sanitary Board?
12. With what matters does the Budget Commission deal? The State Finance Board? The Foreign Investments Board?
13. What are the duties of the State Road Department and how is it composed?
14. Discuss the State Marketing Bureau.
15. Name some other State boards.

## CHAPTER XI

## THE PUBLIC SERVICE COMMISSIONS

**Government Supervision of Certain Corporations.—**

Those corporations and companies, the business of which is to serve the public generally, such as railroad companies, telegraph companies, express companies, etc., are usually large corporations doing business over extensive territory and are seldom sufficiently local in interests to cause them to be guided entirely in their management by local needs or convenience. Therefore a locality might suffer economic loss or inconvenience and be unable to influence the policy of the public service corporation. All states have some kind of public service commission whose duty it is to see that the public generally get fair and just treatment as patrons of these corporations. In some states these commissions have more extensive powers than others—depending on the growth of governmental ideas in the State.

**The Railroad Commission.**—Florida has made a fair start in this phase of governmental regulation. Its most important public service commission is the Railroad Commission. When it was first created, it was given but few powers and public sentiment was not awakened to the need of it. After some years of a slow, trying-out process the Legislature made a proper and earnest effort to clothe this Commission with sufficient powers to cope with its problems and the duty it was supposed to perform. It is supposed to look after the public's interests with all the railroads, telegraph companies, telephone companies and any other common carriers doing business in the State. It must be kept in mind, however, that it would have no power over *interstate* business or commerce, as that is a function of the United States Government. The

United States Commerce Commission looks after interstate commerce.

If the people of a community felt that the railroad depot in their town was insufficient and not adequate to meet the needs of the public travel and shipments to and from that point, they could appeal to the Railroad Commission who would investigate the public need for the convenience and if found necessary would order the railroad company to build such a depot as would meet the public need. Again, if it was found that the rate on some class of freight or express shipments from some point in the State to some other point in the State was not equitably fixed, the Railroad Commission would make it a matter for investigation and order such changes as fairness and justice demanded. Telephone companies also come under the jurisdiction of the Railroad Commission.

The Railroad Commission has extensive powers and jurisdiction over the intrastate business of these common carriers in the State, and the common carriers are the largest and most important of the public service corporations.

**The Hotels Inspected.**—Next to the service given by the common carriers, the traveling public are probably most interested in the service of the hotels. Florida has only recently undertaken any supervision over the equipment and service of hotels but there is now a Hotel Commissioner, whose department maintains an inspection service to see that the hotels, cafes and boarding houses are equipped in accordance with the requirements of the law and that the service is sanitary.

As the public demands it, the supervising or regulating of public service companies by the government will expand to cover every class of public service enterprise.

It should be kept in mind that those public utilities located and operated entirely within the cities and towns are subject

to the regulation of the city or town governments; and their service is usually regulated by the terms of their *franchise* and the ordinances of the city or town. This function of municipalities will be mentioned at more length in a succeeding chapter.

**Quasi-Public Service Corporations.**—There are corporations which engage in lines of business which affect so many of the public and which by the nature of business transacted are in a measure subject to some degree of public or State supervision. These are sometimes referred to as quasi-public service corporations, meaning in the nature of a public service institution. Examples of these are banks and insurance companies.

**Bank Supervision.**—State Banks of which there are over two hundred in the State, are under the supervision of the State Comptroller. He has the power to cause the State banks to be examined from time to time for the purpose of ascertaining if the bank is being conducted on safe and sound principles and if its investments are safe and secure. Since a large portion of the wealth of the State is entrusted in some way to the banks it is of course a matter of public concern and interest that some supervision or regulation over them should be maintained. State banks are supervised by the State and National banks by the Federal Government. As the origin of national banks was to provide a governmental agency to assist in the issue of paper currency the supervision of these naturally falls under the head of Federal Government regulation, since the national currency is one of the subjects with which the National Congress was granted power to deal.

**Insurance Companies.**—A large portion of the people carry insurance of some kind, either life insurance, accident insurance, fire insurance or some other form. Much of the



insurance in force is carried in large companies having their home office in some other State and unless the State maintained some kind of regulation or supervision over their business conducted in Florida the transactions had with them by policy holders might not prove satisfactory or easy of adjustment. So we have laws regulating the manner of handling insurance business in this State. These laws are administered by the State Treasurer who is *ex officio* Insurance Commissioner.

#### QUESTIONS ON CHAPTER ELEVEN

1. Why do large public service corporations need State supervision?
2. What is the chief function of the Railroad Commission?
3. What kind of commerce can it regulate? What kind has it no power over?
4. What are some specific matters with which the Railroad Commission deals?
5. What other public service corporations are under the jurisdiction of the Railroad Commission in addition to railroads?
6. What can you say of the Hotel Commission and its duties?
7. Are the waterworks and electric light plants of your home town or city owned by the city or by a private corporation?
8. Who controls them?
9. What can you say of the advantages and disadvantages of a city owning its own public utilities such as water system, electric light plants, etc.?
10. What is a quasi-public service corporation?
11. Give two prominent examples.
12. What official supervises the State banks?
13. Does he also supervise national banks? Why?
14. Give a reason for State supervision of insurance companies.
15. What official is *ex officio* insurance commissioner?

## CHAPTER XII

## OTHER ADMINISTRATIVE OFFICERS

In addition to those already discussed there are other State officers who are concerned with some phases of administering the laws of the State. Some of these fill important places in the general administration of the affairs of the government. This chapter will deal with the most important duties of these officials.

**The State Chemist.**—The State Chemist's office is in some respects an adjunct of the department of agriculture in so far as its part as an administrative office is considered, but in many ways it is a separate department. The State Chemist, with his assistants, makes chemical analyses of foods, feed stuffs, fertilizers and gasoline sold in the State, and his office is generally concerned with the chemistry work necessary to supervise and enforce the pure food and drug laws, stock feed and fertilizer laws of the State, as well as to give information of value concerning soils, etc.

**State Geologist.**—The State Geologist makes what is called a geological survey of the State. He collects data and prepares it for publication concerning the geological formations in the State; gathers any specimens of interest from a geological standpoint; and furnishes information that he may have in hand concerning the soil formations of any section of Florida.

**The Shell Fish Commission.**—This department, like the State Chemist's, is in some respects an adjunct of the Department of Agriculture. There is a Shell Fish commissioner, who supervises the administration of the oyster and fish laws of the State. He maintains a force of deputies to insure the enforcement of the laws regulating the fish and oyster indus-

tries, and sees that these natural resources of the State are not ruthlessly depleted or destroyed.

**The Hotel Commissioner.**—This officer inspects hotels, boarding houses, restaurants and cafes to see that they are properly equipped for caring safely for the public who patronize them, and also as to the manner in which they are run. He looks after their sanitary condition particularly.

**State Equalizer of Taxes.**—Taxation has ever been a troublous question in governmental affairs. To have the tax burden distributed fairly and equitably among the people of the State is of course the just and right thing to do. The methods of taxation that have been in use in Florida for many years have been such that inequalities have crept in more from the officers whose duty it was to assess taxes than from any fault of the system or theory provided. To correct these inequalities is a problem with which the State Equalizer of Taxes is to deal. An attempt was made some years ago to correct the trouble through the agency of a tax commission composed of three members. The Legislature did away with this commission, however, and very recently a law was enacted providing for one official whose duties are to bring about equality and a fair distribution of tax assessments. His title is State Equalizer of Taxes. His findings are reviewed by a State Board of Equalizers composed of the Governor together with some of the cabinet officers.

**State Labor Inspector.**—The duty of the State Labor Inspector is to see that the laws against child labor in factories are enforced, to inspect the places where groups of men and women are employed, to see that employers provide safe and sanitary working places and that those who labor in factories and like places are protected from intolerable conditions. His greatest work, probably, is to protect children of immature



years from being unnecessarily put to work instead of being in school. Children under certain ages may not be hired out without his permission. He gives it only in cases where the absolute necessities of the family demand it.

**Other Officers of the State.**—There are many other minor officials or inspectors who perform some duties under the State Government and who are not mentioned specifically in this chapter for the reason their duties are closely connected with some department of the government which is discussed in another chapter.

**Miscellaneous.**—There are other laws enacted by the Legislature from time to time, which have been placed for administration under some State officer, such as the Naval Stores Inspection laws. Any office or department which the Legislature creates, it also has the power to abolish and all offices discussed in this particular chapter are statutory offices and may be abolished by the Legislature. A constitutional office, which is one provided for in the State Constitution, may not be abolished by the Legislature.

#### QUESTIONS ON CHAPTER TWELVE

1. What is the work of the State Chemist?
2. What laws depend mainly for their enforcement upon chemical tests?
3. Give the duties of the State Geologist.
4. What is the chief duty of the State Equalizer of Taxes?
5. What benefits are derived from the Hotel Commission laws?
6. What industries are under the supervision of the Shell Fish Commission? What is the purpose of the laws regulating these industries?
7. May the offices mentioned in this chapter be changed or abolished by the Legislature?
8. Could the Legislature abolish one of the cabinet offices? Why?
9. What are the duties of the State Labor Inspector?
10. What other administrative officers of the State can you name?



## CHAPTER XIII

## THE EDUCATIONAL SYSTEM OF THE STATE.

**An Important Duty of the State.**—One of the greatest concerns of the State should be the education of its youth, for they are its future citizens. The school boy of to-day in a very few years may be the legislator, the State official, and the judge. He will have his part in shaping the State's laws and their enforcement, and in caring for the welfare of its populace. He may be, and probably will be called on to serve as a juror, he will doubtless take part in elections and thus be directly participating in the destinies of his State. He is a part of the State, and his influence—however slight—in shaping its welfare is a matter of concern to every other citizen of the State; therefore one reason from a governmental standpoint for public education.

Civilization advances by the side of public education. It is a view firmly grounded in our system of democratic government that maintaining public free schools is one of the fundamental duties of the State.

Our State Constitution says that "The Legislature shall provide for a uniform system of public free schools, and shall provide for the liberal maintenance of the same." So it was the intention of the framers of the Constitution, and of the people in ratifying it, that our public free schools should not be hampered or cramped for funds or run in a niggardly manner.

At the time the present Constitution was adopted, the schools were not being very liberally supported, neither were they of the high standard they are at this time. This phase of our State's government has made most remarkable progress, and this progress has been largely due to the policy followed by the head of the Department of Education, the State Superin-

tendent of Public Instruction, who is the chief school officer of the State.

**Where School Money Comes From.**—If a person is only rich enough he can invest his money in bonds or securities, which will pay interest, and live on the interest of his money. Florida's schools are not quite rich enough to live on the interest of their investments but they have some money which is kept invested. This is called the State School Fund. This fund is never spent, only the interest from it is used. It is now about one and one-half million dollars and it also has lands which some time in the future may make it very rich. This fund receives the proceeds of all lands that have been or may hereafter be granted to the State by the United States for school purposes. The United States granted the 16th section of each township of the government lands in the State for school purposes, so when the lands in Section 16 of any township so granted are sold the money goes into the State School Fund. The Legislature can also appropriate money to this fund and any donation to the State when the purpose is not specified goes to it. When any State land is sold one-fourth of the proceeds must go into the State School Fund, and it also receives the proceeds of escheated property, fines and forfeitures in some cases, and surplus revenues from the administration of certain laws. So this fund is getting a little richer from time to time. The principal of this fund is invested in bonds of the United States, bonds of the States or bonds and securities of the counties and cities of this State. The interest is distributed to the counties and used exclusively for the support of the public schools.

The State also levies a tax of one mill on the dollar on all property in the State assessed for taxation and the money thus collected is likewise distributed to the counties for the public schools. Then the counties levy a tax throughout the

county which may be as much as ten mills on the dollar and not less than three mills on the dollar, and the money thus raised is used for the support of the public schools throughout the county.

**Special Tax Districts.**—If a part of a county desires better school facilities than it can have from its share of the money above mentioned, a special tax district may be formed and a further tax may be levied and used for the schools in that district. Special tax school districts may also issue bonds for building school houses and equipping them. Many of the special tax school districts of the State have issued bonds and with the proceeds have built new and substantial school buildings with modern equipment.

When the citizens in any section of a county vote to create a special tax school district of their section they determine first the proposed boundaries and petition for an election, and, if the petition be in accordance with the law's requirements, the county school board calls the election and gives due notice of the same. At this election those qualified to vote within the limits of the proposed district, vote on the question of its formation, the number of mills special tax and for three trustees. These trustees make recommendations as to the management of the schools in the district and how the money is to be spent which is raised by the special tax. However, the county school board contracts with the teachers and pays their salaries and has control of school matters over the entire county.

**Grades and Classes of Schools.**—The educational system of Florida contemplates that the education of the youth shall be uniform and the instruction is classified into grades, or the schools are said to be graded. In thinly populated sections the schools cannot be as carefully graded as in the cities or more populous communities because of having possibly only one teacher or a very few teachers. In the cities and



towns there are enough little tots just ready to begin that a teacher can be had for them alone and in such cases they have kindergartens for the beginners.

The graded and grammar schools include from the first to eighth grades; and the high schools from the ninth to the twelfth. After completing the high school course the student is ready to enter college.

The State maintains for the white students two institutions of higher education with college and university rank. These are not co-educational, that is, the boys and girls do not attend the same institution. The University of Florida, located at Gainesville, is for boys and men; the Florida State College for Women is located at Tallahassee. Each of these institutions is in itself a group of colleges where the student may receive college training in a number of different professions or trades.

The negro youth of the State are provided with a well equipped college at Tallahassee known as the Florida Agricultural and Mechanical College.

While the institutions of higher education are more largely attended each year, the large majority of the young people of the State do not go beyond the high school; so the work and facilities in the graded schools are being given very careful attention.

**The Professional Side of the Schools.**—The means by which to maintain the schools, and also the classification of them, have been discussed, now the professional side will be taken up. If the school possessed a fine building with modern equipment yet poor teachers the pupils would suffer thereby; so it is important that while the State is expending large amounts of money to maintain the schools it should require fixed standards of qualifications for teachers so that the money will bring value received and so also that the pupil



may have a just and fair opportunity to get the very best out of his or her school days.

**The Examination of Teachers.**—Teachers, in order to teach in the public schools are required first to obtain a certificate. As often as expedient an examination for teachers is conducted in each county in the State, these examinations being conducted by a commission of three educators appointed for that purpose. The successful applicants in these examinations are issued first, second or third grade teacher's certificates according to the grade of their examination papers. These certificates entitle the holder to teach in the graded or grammar schools and are good for from two to five years. Some teachers prepare especially to teach certain subjects or branches and can take examinations in these branches and, if they make the required grade, will be given certificates authorizing them to teach those special subjects.

Teachers who desire to teach the higher grades in high schools and in colleges are required to hold State certificates or special certificates. State certificates are based on examinations in higher branches than the first, second and third grade certificates. Other certificates are also issued.

**Normal Training.**—In order that the teaching profession shall be kept up to high standard, normal training courses are maintained in the colleges and special summer normal schools are conducted.

In the colleges and the University students may take the regular college courses in the arts and sciences, or courses for special trades or professions, such as law, engineering, agriculture, teaching, music and domestic art and science.

Florida is providing well for the education of its youth. Heretofore the attendance upon school has been optional but recently the Legislature has made attendance upon school by children within certain ages compulsory. Compulsory attend-

ance laws are based upon the theory that the State can ill afford to have illiterates among its citizens. It is true that the ignorant and illiterate are not so useful as citizens and are more likely to become, at some age, public charges upon the State.

**Efficiency in Schools.**—In these modern times much emphasis is placed on efficiency in all undertakings. In so great work as educating the youth of the State it is quite important that efficient teachers be employed, the very best methods used, the utmost endeavor put forth, the best conditions possible be provided in which for teacher and pupil to work and upon the whole that the utmost results be obtained in the schools. To this end the State provides inspectors for the rural schools and also the high schools. These inspectors visit the schools to see if the high standards prescribed are being followed, if the teachers are qualified, if the school buildings are comfortable, sanitary and properly equipped.

The boys and girls of Florida should feel grateful for the fine things which have been done to provide them with the very best in educational facilities and in turn should resolve to make the very best use possible of their time while in school. The means to obtain an education is in reach of almost every child in the State and the opportunities, which are so much better than our forefathers had, should not be wasted.

**The School and the State.**—While the boys and girls are enjoying these advantages provided for them they should not be unmindful of the government which has done so much for their benefit. The State protects them, provides for their living in healthful and safe communities, furnishes so many things for their welfare and gives them the very best school advantages. The boys and girls should therefore have great love and respect for their State government. Some day it will be their duty to take up the responsibilities of supporting,

and possibly aiding in directing the government of the State for the benefit of themselves and their children.

**Educational Extension Work.**—The State, with aid from the Federal government, carries practical educational work right to the homes of the people. Demonstration work in home economics and farming is carried on through the educational system with much benefit to the people.

#### QUESTIONS ON CHAPTER THIRTEEN

1. Why is educating the youth of the State an important duty of the government?
2. What does the Constitution say about providing for public free schools?
3. How does it say they shall be maintained?
4. What can you say of our public schools at the time the present Constitution was adopted?
5. What can you say of the State School Fund?
6. How is it added to from time to time?
7. From what other source do school funds or moneys come?
8. What can you say of the formation of a special tax school district? How have many of the school houses been built and furnished?
9. How is uniformity in the school work of the State maintained?
10. Where are our institutions of higher education located and what are they named?
11. What can you say of the method of providing qualified teachers for the public schools?
12. What provision is made for maintaining a high standard for the qualification of teachers?
13. Do you think compulsory attendance in schools a good plan? Why?
14. What can you say of efficiency in the schools and methods provided for maintaining it?
15. Are the present day facilities for gaining an education better than our forefathers had?
16. What can you say of the relationship of the schools and the State?



## CHAPTER XIV

## THE MILITIA AND THE MILITARY ESTABLISHMENT

**Who Constitute the Militia.**—The militia include every male inhabitant of the State who is a citizen or who has declared his intention to become a citizen of the United States, between the ages of eighteen and forty-five years, and none will be exempt from military service on account of religious creed. Provision is made by law for exemptions under certain conditions to clergymen, teachers and certain public officials. Some speak of the soldiers or members of military organizations as “militia,” and some, therefore, have the idea that only those who belong to some such military organization are members of the militia, but this is an erroneous idea; the militia are those in the State subject to be called into the military service of the State or of the United States.

It will be noted that none are exempted on account of religious creed. If a man should be exempted from military service for such reason, all those who desired to avoid serving their State or Nation in time of need, could do so by espousing the creed which would exempt them. The Quaker's creed does not sanction going to war, and while the true Quaker is sincere in his belief, yet if all Quakers were exempted from military service, it is likely that cowards would turn Quakers in time of war.

Another idea is presented here for the student's thought. Since the “common defense” is one of the primal objects of government, the largest possible number of the citizenry should be subject to the government's call when needed for the common defense.

**The Military Establishment.**—The organized militia compose the military establishment in time of peace, so far as



the State is concerned. For many years the enlisted members of the organized militia in our State were known as the Florida State Troops, but a few years ago the National government began a policy of supplying the State military organizations and aiding in their training with a view to making them more quickly available as trained soldiers in time of war or other urgent need. They have since that time, in all the States, been known as the National Guard, and have been subject to the call of the National government.

The organized militia or National Guard of Florida, under the present law, consists of one regiment of infantry, and several special service companies.

The head of the military establishment, nominally, is the Governor, who is commander-in-chief, but at the head actively is the Adjutant General. He devotes his time to looking after the details of the organization and the maintenance, equipping and drilling of the various commands.

**Martial Law.**—The military companies have proven a valuable aid in times of unusual conditions or calamities within the State. If a city should be laid waste by fire or flood and the orderly affairs of the community be suddenly thrown into disorder and chaos, the militia are called out and maintain a military order of government until the civil government can be again organized and restored. Sometimes riots may break out and suddenly become so serious as to be beyond the control of the local civil authorities. The militia are called to restore order in such cases. When a city, or any locality, has to be placed entirely in the control of the militia, and the civil government in the locality is entirely suspended because of the extreme conditions, martial law is declared and the city or locality is then governed by the military authorities according to the strict and exacting rules of military government. The law in the locality concerned, for the time being, is such orders

and rules as may be issued by the military officer in command. Offenders or violators of those laws are speedily tried by courts-martial which are military courts. The military power, when invoked, is effective because its forces are organized and trained and are able speedily to enforce its rules and regulations.

**Drafting for Military Service.**—Enlistment in the organized militia is voluntary and since the Civil War military service in the organized militia of the States and in the army of the United States was voluntary until the United States entered the great world war when the development of conditions which made necessary a quick change from a state of peace to actual warfare caused the congress to enact a compulsory service law.

When one subject to or able for military duty offers, of his own accord, to enlist and perform the active military service he is a *volunteer*; if he is compelled by his government to perform the service, he is said to be selected or drafted. In the event of war, volunteers are first called for and many of the citizens able to perform military duty will volunteer as they see they are needed. The patriotic citizen realizes that he owes his country and his government all he possesses, even his life if necessary, when the public safety is imperiled and the State or Nation attacked.

A State does not have the authority or power to declare war or begin hostilities independent of the National government, unless invaded or in immediate danger.

The Adjutant General, who is the active head of the organized militia, gives his entire time to the office and receives a stated annual salary. He has headquarters at the State Arsenal. The officers and enlisted men of the National Guard receive regular pay while on encampments or when

called into the service of the State or the United States, and now also receive a small compensation for attending drills.

#### QUESTIONS ON CHAPTER FOURTEEN

1. Of whom does the militia consist?
2. Does a man's creed or religious belief exempt him from military duty?
3. Who composes the military establishment of the State in time of peace?
4. What is the object of training the organized militia in time of peace?
5. Who is the Commander-in-Chief of the militia as a whole?
6. Who is actively at the head of the military establishment?
7. Upon what occasions, other than war, are organized military companies needed?
8. What is martial law?
9. Can the government require a person able to do military duty to perform that service?
10. What can you say of volunteer service when the nation is at war?
11. Can a state declare war? If so, when?
12. Do the members of the National Guard receive pay?

#### QUESTION FOR DEBATE

Resolved; That a limited standing army for the nation and a well trained National Guard in each state, is a better plan than universal military training.

## CHAPTER XV

## THE PRISON SYSTEM

**State Prisoners.**—Those who break the laws of the State are, after trial and conviction, sentenced to pay a fine or serve in prison. If the offense of which the person has been convicted be a felony, he may be sentenced to serve a term in the State prison. For many years, Florida had no actual State prison, but leased or hired out all State prisoners to persons or companies who would guard, clothe, feed and otherwise care for them, working those able to labor, and paying the State some price agreed on at the time the contract was made. Prisoners when turned over to these lessees were subject to the inspection of State officers and were said to be in the State prison.

These lessees, of course, wanted to get all the work possible out of the prisoners, and abuses would creep in. So the system of letting out the prisoners for hire, the contracts being made with the highest bidder, came into public disfavor. The policy of subjecting even a criminal undergoing punishment to be driven to the limit of his endurance for mercenary motives, was contrary to the enlightened and modern idea of the treatment of prisoners; so the "lease system" was abolished. The abolition of it was gradual because it was necessary to provide some place where the State could keep them, and some time was required to establish and fully equip such place and provide for the prisoners to have some work to perform. A State Prison Farm has been provided and is the State Prison headquarters. More than half of the State prisoners are now kept at this State Farm. The able bodied men are worked on the State roads. The maintenance of public roads being a function of government, either State or county, the sugges-



tion to place the convicts at road building met with no particular opposition.

**Reforms in Prison Management.**—Prison management, while only an incidental function of government, is one which by no means should be neglected. In many states prison reforms have been the occasion of much legislation and publicity. Florida's prison system, while never as bad as some, has been greatly improved in recent years and the Prison Farm previously mentioned is a model one. It has one general superintendent, a head physician and a number of guards and watchmen. Those prisoners whose conduct for a considerable time is found exemplary are made trustees by the superintendent and except for the stripes they wear they go about their work as though they were not convicts.

All State prisoners are required to wear suits made of wide black and white striped cloth. This cloth is made especially for use in convict suits and, therefore, if a convict escapes from prison, he can easily be detected as a prisoner by his clothes until he has an opportunity to get others and change. Some prison reformers have objected to the use of striped suits for the prisoners, stating as a reason that the wearing of such clothes was a constant humiliation to the prisoner and kept him broken in spirit. This idea is possibly an extreme one in prison reform, for while modern prison systems include the purpose of reforming criminals where possible, yet the main purpose of a prison is a place of punishment, for some people would have no respect for the law or the rights of others were it not for the fear of punishment. While this is true, yet such punishment should never be brutal or inhuman, but should be only such as would result in the penitence of the prisoner, causing him to have respect for the law and reforming him from any criminal tendencies he might possess.

**The State Reform Schools.**—The State Constitution provides not only for a State prison but also that “Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders \* \* \*” Under this authority the Legislature has established two reformatories, one for boys at Marianna and one for girls at Ocala. It is the purpose of these two schools or reformatories to care for and make better boys and better girls of those of immature age who have become incorrigible or broken the laws of the State and have become a menace to society.

By proper care and training many of these boys and girls see the error of their ways and are reformed from their evil habits and tendencies thereby developing into good citizens instead of criminals and social outcasts.

**County and City Prisons.**—The counties maintain jails or prisons for those who have been tried in the county courts, county judges' courts or justice courts and convicted of misdemeanors or minor offenses. The prisoners who are sentenced to serve terms of imprisonment in the county jails are in the custody of the sheriff who clothes and feeds them. Under orders of the county commissioners county prisoners are employed, when their physical condition permits, on county roads or on any public work of the county in which the commissioners may desire to use them.

Cities and incorporated town likewise maintain prisons or jails for offenders against their laws and ordinances. The term for which such persons are imprisoned is usually short as the offenses are not so grave as those over which county and State courts have jurisdiction. In addition to being confined in prison offenders against city or town ordinances are also sometimes employed at some labor for the city, such as work on the streets.

## QUESTIONS ON CHAPTER FIFTEEN

1. What are the modes of punishment for those who break the law?
2. In past years how were the State prisoners handled?
3. What were the objections to hiring out the prisoners?
4. What kind of State prison have we now?
5. What kind of clothing or garb do prisoners wear? Why do some prison reformers object to this kind of garb? Do you think their objection well founded?
6. What is the main purpose of a prison?
7. What provision is made for the correction of juvenile prisoners or offenders against the law? Where are these places located?
8. What is the county prison called?
9. What official has charge of county prisoners?
10. County prisoners are engaged usually in what kind of work?
11. Do cities and towns also have prisoners?
12. What work is sometimes given them to do?

## QUESTION FOR DEBATE

Resolved, That a sentence to prison should be more for the purpose of reforming the prisoner than for punishment.

## CHAPTER XVI

## THE COUNTY GOVERNMENT

**The Principal Political Subdivisions of the State.**—The main governmental divisions of the State are the counties. There are other divisions or districts which include more or less territory than one county, but the county is the main subdivision from the standpoint of the administrative department of the State government. It is said to be the political unit, as it is not only the main subdivision in the administrative department, but is also the basic unit for circuits or districts in the judicial and legislative departments.

The number of counties is variable, as the Legislature has the power to create new counties by division or changing of boundary lines of several counties. A number of new counties have been created since the Constitution of 1885 was adopted.

**New Counties.**—When new counties are created, the new county must take over its share of the debts or liabilities from the old county or counties from which it was created. These liabilities are divided pro rata according to assessed value of property, both real and personal.

The city or town at which the principal governmental affairs of a county are conducted is called the county seat. When a new county is formed, the county seat may be temporarily established by the Legislature, but the Legislature has no power to change a county seat. When the people of a county desire to change the location of the county seat from one city or town to another, they petition for an election which, if the petition is sufficient, is called by the county commissioners. The city or town receiving a majority of all the votes cast at such election, is the county seat. If there be more than two



places voted for, and no one of them receives a majority of the votes cast, then another election is held at which only the two places receiving the highest and next highest number of votes shall be voted for, and of these two places, the one receiving the majority of the votes cast is declared the county seat. It then remains the county seat for the next ten years (in counties having only a frame courthouse this does not apply).

The county government derives all its powers from the State government, either from the Constitution or from legislative enactments, and the Legislature provides by law for a uniform system of government in the counties.

**The County Officers.**—The counties are divided into five commissioner's districts and a county commissioner elected from each district. These five county commissioners attend to the affairs of the county generally, and are particularly charged with looking after the public roads and bridges, the paupers, the care of county property, levying county tax millage, details of holding elections, paying all bills against the county (but not school expenses), care and working of county convicts and supervision of the finances, records, etc., of the county. The commissioners receive a *per diem* for their services and mileage for distance traveled in going to and from meetings. They hold regular stated meetings, usually once each month, and special meetings when necessary. A county should have men of sound business judgment on its Board of County Commissioners.

**The County Judge.**—This official is a court officer and administrative officer. He holds court for the trial of certain cases (his jurisdiction as to cases is discussed in another chapter), and performs various other duties which are prescribed by the Legislature, such as the issuance of marriage licenses, countersigning occupational licenses and making re-

ports of the same, issuing and collecting for hunting licenses, etc.

**The Sheriff.**—The executive or police officer of the county is called the sheriff. He is not a judicial officer, but is an officer of the court in executing its orders and seeing that its mandates are enforced. He is particularly charged with the detection and arrest of violators of the law, and when prisoners are under arrest awaiting trial, or after conviction are sentenced to jail, he is charged with their safe keeping and care, and is, therefore custodian of the county jail. The sheriff is expected to see that quiet and order prevail and to quell any riots or disturbances of the peace. In order to carry on his regular work, he is authorized to appoint deputies who are required to give bond. In the case of unusual or necessitous circumstances, the sheriff may call upon any citizens to assist him in maintaining order or arresting violators of the law.

**The Clerk of the Circuit Court.**—This official is one of the busiest of the county officers. At least his office is among the most important from the standpoint of work which the law places in his charge. He is, as the name implies, the Clerk of the Circuit Court, and besides keeping its minutes and records while in session, he also keeps all papers and records filed from time to time in the cases which come up for hearings before the Judge. In addition to being Clerk of the Circuit Court, he is clerk of the board of county commissioners, and *ex officio* county auditor. In his office are recorded deeds, mortgages, plats and maps of lands, judgments, etc., and also the records of lands sold for taxes and other records pertaining to real estate.

As clerk of the county commissioners, he keeps the minutes of that board, and a record of their financial transactions. He keeps the financial accounts of the county, and as *ex*

*officio* county auditor, checks up all officials of the county who in any wise handle public funds. He has many clerical duties to perform in connection with the preparation for elections, and the many details of the county government. He is also clerk of the county court in counties where such court has been established.

**The Tax Assessor.**—In each county the County Tax Assessor is the official who prepares and places in a book a list of all the taxable property in a county, both real\* and personal, with the owner's name and the assessed value of the property. After the tax millage, or rate of taxation is determined, and he is notified of the same he calculates and enters on the tax book the amount of taxes, both State and county, due on all the property listed in the tax books and makes three copies of the completed book. One of these he delivers to the Tax Collector with instructions to collect the taxes assessed therein, another copy is delivered to the Clerk of the Circuit Court as one of the public records of the county, and the third copy is sent to the State Comptroller and filed with the State records. The taxes assessed by the county tax assessor are only those levied for the State, county or special district of a county, and which are collected on an *ad valorem*<sup>1</sup> basis. He assesses poll taxes, however, which are assessed as a *per capita*<sup>2</sup> tax, instead of *ad valorem*.

**Collecting the Taxes.**—The Tax Collector of the county upon receiving the tax assessment books, proceeds, at the proper time, to collect the taxes as assessed, and also collects occupational license taxes. The Tax Collector remits monthly, or oftener, to the State Treasurer for all State taxes collected,

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\*Real property or real estate is land with any fixtures or improvements thereon not easily movable. Personal property is movable, and includes all property not classed as real.

<sup>1</sup>Ad valorem means according to the value.

<sup>2</sup>A per capita tax is one "by the head" or on the individual.



and to the county depositories for the county and district taxes collected. He does not have anything to do with the taxes of the cities or towns.

At the time for the tax book to be closed, the tax collector proceeds to make up a list of lands on which the taxes have not been paid, and, after advertising the sale, proceeds to sell the land for the taxes due. Any personal property on which the tax has not been paid, may be seized and sold for the taxes.

**The County Superintendent of Public Instruction.**—The chief school officer of the county is called the County Superintendent of Public Instruction. He has supervision over the public schools of the county, and is clerk or secretary of the County Board of Public Instruction. He keeps the school records of the county, including the school financial records and accounts. He also visits and inspects the schools.

**The County Commissioners.**—The affairs of a county, not made specifically the duty of some county officer come before the Board of County Commissioners. As before mentioned, there are five members of this board, each being from a different district of the county, and they might be termed the board of managers for the county in its governmental affairs. They have particular jurisdiction over roads and bridges, and other special duties mentioned elsewhere in this chapter.

**The Board of Public Instruction.**—The general managers or directors of the school affairs of the county are known as the County School Board or Board of Public Instruction. They meet in regular session at least once each month, and oftener if necessary, and it is within their province to assign teachers, determine the length of term a school shall be taught, where the school shall be located, the kind of schoolhouse to be built, the number of teachers, etc. While the county board



has this power, they usually permit the local trustees or the people of a community to settle many of these questions for themselves. This is especially true in the rural communities with reference to selecting the site for a school and the teacher or teachers to teach in the community. In the cities, the board of trustees of the school district make recommendations to the county board regarding most of the school affairs of the city or district, and these, as a rule, are adopted by the county board. The County Board of Public Instruction is composed of three members.

**Other County Officials.**—The supervisor of registration keeps the records of the registered electors and provides, at the proper time, for the registration of new voters, and furnishes lists to election inspectors of those who have qualified by the payment of poll taxes.

The county surveyor when called upon makes surveys of land for individuals for which he is paid a per diem by the party for whom the survey is made.

There is also the county game and fish warden, and in some counties there are timber and lumber inspectors, also inspectors of marks and brands, pilot commissioners, harbor masters, etc.

Most communities have a justice of the peace and his constable who are a part of the judicial system and will be mentioned in that connection.

**Public Roads.**—No sooner does a community get its first settlers than it becomes necessary to provide roads for the public to travel. As the population increases the travel increases; and its increase also follows the invention of new and improved means of travel. Since the coming of the automobile, the public road question has become an almost paramount one in the county government. Until very recently, maintaining roads has been exclusively a county matter and under the

jurisdiction of the county commissioners. In some counties there has been built quite a system of hard surfaced roads. In other counties certain districts have formed a special tax road district, and improved the roads in the district by a special tax or by the proceeds of bond issues.

The variety of opinions in the several counties as to the best kind of hard surfaced roads to be built, and the mistakes made by the county commissioners in some counties have given rise to the policy of State supervision of public roads, especially the main highways, and some progress has been made along that line. Also the national government has been induced to lend aid in road building, one of the theories upon which this is done being that the rural mail carriers have to use the public roads and therefore the national government may very properly render aid.

The system of roads was once largely a community affair, then a county function, and is now fast becoming a State and National function of government. Many of the counties have issued bonds to raise the money for building hard roads, as well as for other improvements. These public improvement bonds are payable in the future, some thirty, forty or even fifty years after date, and a special annual tax on all the property within the territory bonded is levied to meet the interest and the principal when due.

**Looking After the Poor.**—The paupers of the county are usually taken care of or are materially assisted by the county commissioners. In some counties a poor house or poor farm is maintained, while in others, the paupers are compelled to find some abode, but the county contributes monthly small amounts to assist in maintaining them. The State Constitution authorizes specifically such action in the following language: "The respective counties of the State shall provide in the manner prescribed by law for those of the

inhabitants that by reason of age, infirmity or misfortune, may have claims upon the aid and sympathy of society."

The county commissioners, with aid from the State, also in most of the counties maintain canning club agents for the girl's canning clubs and farm demonstration agents for the boys' corn clubs and pig clubs and for general effort to improve conditions in rural communities. The federal government also aids in this work.

To the resident of the country districts the county government is the part of the general governmental system with which he comes in most direct contact. The resident of the city comes in closer touch with the city or municipal government than with the county or State officials.

The office of county treasurer has been abolished recently, and the county's funds are deposited in banks, for the safe-keeping of which the banks give bond.

#### QUESTIONS ON CHAPTER SIXTEEN

1. What are the main political or governmental subdivisions of the State called?
2. Is it the unit of government in the judicial and legislative departments also?
3. May the number of counties be changed? If so by what authority?
4. How many counties has Florida at this time?
5. Suppose a county should be divided which had bond issues outstanding, which county would pay the bonds?
6. How would the share of each be determined?
7. What is the city or town called at which the main county business is conducted?
8. From what source does the county government derive its powers?
9. Name some duties of the county commissioners.
10. How many members compose the Board of County Commissioners? Could they all reside in one city or town?
11. Give some of the duties of the county judge.
12. What are the principal duties of the sheriff?

13. Discuss the office of the Clerk of the Circuit Court.
14. Give the method of assessing taxes.
15. What is an *ad valorem* tax? A *per capita* or poll tax?
16. How does the tax collector enforce payment on lands and personal property?
17. What are the chief duties of the County Superintendent of Public Instruction? Of the County Board of Public Instruction?
18. What can you say of public roads with reference to the county government?
19. What does the Constitution say regarding the counties aiding the poor?
20. With what part of the government does the resident of the rural district come in closest touch? The resident of the city?



## CHAPTER XVII

## CITIES AND TOWNS

**Municipalities.**—A city or town that has a government of its own, before it can establish and maintain such government, must be incorporated. There are two methods of incorporating both of which derive authority, however, direct from the State Legislature. There is a general law under which a community may, at any time the conditions can be met, become incorporated by complying with certain requirements. Then when the Legislature is in session it may pass a law for the special purpose of incorporating some particular town or city. Cities and towns may have changes made in their charters in the same way.

**Municipal Charters.**—The charter of a city or town is a grant of authority from the Legislature to establish and maintain a municipal government over the prescribed area within the limits of the city or town. This charter is a sort of constitution to the city or town, for it can exercise no authority except such as may be granted it by the Legislature. The government of a city or town depends a great deal on its size as to how simple or how complex it may be. Large cities usually have a government as complex as that of a State, and as varied as to questions with which it deals.

Two forms of government for cities are now in common use, and we find examples of each kind in Florida. One is the old style, providing for a Mayor and executive department, a council or board of aldermen comprising the legislative department, and the municipal court, and in addition to these, many departments such as the sanitary department, health department, police department, etc. The second form is what is known as the Commission form and differs from the

old form mainly in that the governmental authority is centralized and placed in the hands of a very few men—usually three to five—who are called commissioners. These commissioners have full power to administer the city's affairs. In the old form, which is in vogue in most of the cities and towns of Florida, the Mayor is the chief executive and looks after enforcing the city's laws. The laws of the city are called ordinances, and are passed by the city council or board of aldermen or city commission, in somewhat the same manner as a bill is passed by the State Legislature.

In the other or new form the commissioners usually divide up the work among themselves, each taking certain parts of the city government for his special care. In some cities where the commission form is in use the commissioners designate either one of their own number or employ some person who possesses experience and especial qualifications for the work of city government to devote his entire time to supervising the governmental affairs of the city.

Since the constitution makes no requirement that city or town governments be uniform there is a wide variety in use in the State, almost every city or town having a different kind of charter. We may note from this how widely people differ in their ideas of government. Though the cities and towns have many differences in the details of their governmental affairs, the general divisions of government appear in all—that is the legislative, executive and judicial.

**The Lawmaking Department.**—The legislative function in the government of a city or town is vested in a body known as the city council, the board of aldermen or the city commissioners. The laws they make for the city are usually termed ordinances. These ordinances must be in conformity to the grants of power from the Legislature as contained in the city charter.

**The Executive Department.**—The chief executive officer of a city or town is called the Mayor. In some municipalities the executive and judicial functions are both vested in the Mayor, but usually the Mayor is mainly concerned with the executive or law enforcing duty.

To enforce its ordinances the city provides policemen (in smaller towns a marshal performs this duty), and the police department is one of the most important parts of a city's government. With the people living in so much closer proximity, the traffic being so much heavier, and the need for order and rules of conduct more strictly enforced than in the thinly populated sections, the police of a city are indispensable. They direct the traffic so that there is reasonable dispatch in moving to and fro notwithstanding the crowds and the variety of vehicles as well as pedestrians moving in each direction. They see that order is observed and arrest any one apprehended in violating the city's ordinances, or in any way disturbing the peace.

The fire department of a city is another important one. The houses being close together, if one house should catch fire it might endanger the whole city, so the firemen, equipped with apparatus for fighting fire, respond to the fire alarm and put out the fire as quickly as possible to save the property burning and to protect other property from catching fire. Small towns usually have only a volunteer fire department, that is, its members are not paid to give their time to it but respond to the fire alarm and render such aid as possible when a fire occurs. In larger cities the fire department consists of a number of men who are paid regular salaries and who remain on duty at the fire station ready instantly to respond to a call or alarm. The fire fighting apparatus consists of hose through which the streams of water are pumped on the fire, a motor truck or one drawn by horses to carry the men, ladders for climbing to upper stories, and hooks, axes, etc., and

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if the city be a large one there is a portable engine for pumping direct pressure and throwing the streams of water with great force.

The Sanitary Department has the work of keeping the city clean. Its employes sweep the streets, clean out sewers, and see that the trash and refuse are disposed of, and the premises of the homes, vacant lots, etc., harbor no unhealthy conditions.

**The Judicial Department of the City.**—The municipal court of the smaller cities and towns is usually presided over by the Mayor who determines if those arrested and brought before him are guilty, and if so, places the fine or sentence of imprisonment upon them. The offenses of which a city court has jurisdiction are not such as merit severe punishment, and the fines imposed usually are small or the prison sentence of short duration. In the larger cities the number of offenders brought up for trial require more attention than the Mayor would be able to give, so there is a municipal judge to preside over the city court.

Trials in the city courts are usually disposed of more quickly than in the county or State courts. Whether with as exact justice or not, they are not attended with as much rules of procedure or other delays.

**The City Finances.**—The city government has its financial side, of course, for the salaries of officials and other expense of administration must be paid. The city levies and collects taxes including licenses of various kinds and thus obtains its revenues. To look after the finances, the city has a tax assessor, tax collector, a clerk and a treasurer. Unless the city be one of the largest size, two or more of these offices are sometimes combined and held by one person to save expense.



**Public Conveniences.**—Cities have certain conveniences according to their size, not found in the small towns or country districts, among these being street cars, electric lights, gas for lighting and heating and water works. These are public utilities and some cities own and operate their plants for these purposes, charging the users for the service furnished. In these larger cities, one of the questions usually discussed is whether it is more economical for the city to own and operate these public utilities or grant franchises to corporations or individuals for this purpose.

The modern idea in city government is not only to give police protection and the city conveniences, but also to give to the people, including the children, every possible facility for adding to their comforts and pleasure. Hence, parks and city play grounds are maintained and other means are found for adding to the safety, comfort, health and happiness of those who live within its limits. Where the people are crowded together in their living conditions and working conditions as they are in cities, their relationship one to the other and individuals to the group, become more complicated and so the governmental activities of large cities are extensive and complex. But through it all run the fundamental principles of government, safety and the common welfare.

#### QUESTIONS ON CHAPTER SEVENTEEN

1. What is necessary before a city or town may have a municipal government?
2. What two methods are followed in securing charters for cities and towns?
3. What two forms of municipal government are now in use?
4. Discuss the main difference in the commission form and the aldermanic or council form.
5. How are the laws of a city or town enacted? What are they called?

6. Do all the cities and towns have the same form of charter?
7. Who is the chief executive officer of a city or town?
8. Who assist him in enforcing the ordinances and maintaining order?
9. What are some of the duties of the police in a city?
10. Why should a city maintain a fire department?
11. What official exercises the judicial function in cities and towns?
12. What are the public utility plants found in the larger cities?
13. Are they owned by the city or town?
14. What does the more modern idea of city government include in addition to protection of the citizens and their property?

## CHAPTER XVIII.

## THE JUDICIAL DEPARTMENT

**Interpreting the Law.**—In the chapter dealing with the three divisions of government (Chapter VI), a diagram was given of the main divisions of the Judicial Department. Mention has been made that this department's chief function is interpreting the law, or stating what is the law, when a question arises. The lower courts of the Judicial Departments, or those which have original jurisdiction, are tribunals of justice in which trials are had of those charged with crimes, and also trials are had of causes where personal or property rights are in question.

A discussion of the Judicial Department must of necessity, in a book of this kind, be limited to its elementary functions, and the elemental ideas of government as they are evidenced in the workings of this department.

**The Supreme Court.**—The highest court of the State is called the Supreme Court, and it is the final arbiter of all legal matters in which no federal question is involved. It is composed of not more than six justices (at this time the number is five), one of whom is chosen by lot as chief justice. A justice of the Supreme Court must be at least twenty-five years of age and an attorney-at-law. Supreme Court justices are elected by the people and are usually men who have attained high standing in their profession. They hold office for six years. This court has appellate jurisdiction in all cases at law and in equity, and also in the more important criminal cases originating in the lower courts.

Its most important work, at least from the standpoint of the demand upon its time, is the review of the cases appealed from the lower courts. However, there are two other distinct

functions it performs that are far reaching in their effects and of no small importance in our governmental system. These two are: (1) The review of acts of the Legislature upon the question of their constitutionality, and (2) the enforcement of statutory and constitutional limitations upon the executive department.

If the Legislature should pass a law which was not in accord with the Constitution, and the law be brought to a test before the Supreme Court, it will be declared unconstitutional, and therefore null and void. Also, if the Chief Executive or other officers of the executive department undertook to exceed their authority as limited by the Constitution or statute, such acts could be brought before this court for review. So this function of the court is a check on both the legislative and executive departments.

The people have sometimes exhibited impatience, that is to say a portion of the people, when the court has exercised this power, but it is a very wholesome one and is vested in the judicial department for the safety and protection of our governmental system and the rights of the people. One eminent authority\* says that the State courts "originally used their judicial veto principally to protect their own constitutional rights; they now use it largely to condemn the fruits of incorrect legislative procedure and to maintain the integrity of 'due process of law.' " The Florida Supreme Court is very reluctant, however, to declare null and void any act of the State Legislature and seldom exercises this power of veto, except the act of the Legislature be plainly unconstitutional.

**How Its Powers Are Exercised.**— The power to issue writs such as the writs of mandamus, certiorari, prohibition, quo warranto and habeas corpus is conferred upon the court that it may freely exercise its jurisdiction. When some of-

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\*Holcombe's State Government in the United States.



ficial or person is failing to do what should be done to conform to the law or the Constitution, the court can compel performance by the writ of *mandamus* (we order); when something is about to be done by an inferior court which ought not to be, the writ of *prohibition* applies; when a person occupies an official position or is performing official acts which he has no legal right to perform, or his right is questioned to hold the office, the writ of *quo warranto* (by what authority) applies.

The terms of the court are held twice each year and the court is in session almost continuously during the year. The court sits at the capital but not in the capitol building; a commodious building near by being devoted mainly to their use.

Cases on appeal to this court are usually argued by the attorneys through written arguments called "briefs." Sometimes an attorney desires to argue his case orally, in which event at an appointed time (now each Tuesday and Wednesday) the justices assemble on the "bench" for the hearing.

**The Decisions of the Court.**—Cases appealed and important judicial determinations are carefully considered and the opinions of the justices are carefully prepared. Usually one of the justices prepares the "decision" and the others, after considering the same, either concur with or dissent from the opinion. A majority of the justices control in a decision. When a question has been once decided by a court, it becomes a precedent, and is ordinarily followed by that court and inferior courts in all subsequent decisions on the same question. This custom or rule is called the rule of *stare decisis* or previous decision. The opinions of the court are printed and bound in convenient volumes and become a part of the law of the land.

**The Circuit Courts.**—Next in order in the judicial system come the circuit courts. The State is divided into as many

judicial circuits as the Legislature deems necessary. At this time there are sixteen; from one to five or six counties composing a judicial circuit. There is a circuit judge and a State attorney for each circuit, and they hold terms of the Circuit Court at least twice each year in each county in their circuit. In each county there is a clerk of the Circuit Court, and a sheriff, for assisting in conducting the business of the court.

The Circuit Judges must reside in their circuits, and are appointed by the Governor, by and with the consent of the Senate, for a term of six years. The State Attorney is likewise appointed, but for four years.

**Other Courts of the Judicial Department.**—Criminal Courts of Record are established in some of the counties, and in these, most of the criminal cases arising in the county are tried. Crimes for which the death penalty may be imposed can only be tried in the Circuit Courts. There is a judge and a solicitor for the criminal court and usually four terms are held each year.

County Courts are established in some counties. Their jurisdiction is not so extensive as the Criminal Courts of Record or Circuit Courts. The County Judge is judge of the County Court, and the clerk of the Circuit Court is *ex officio* its clerk.

The County Judge's Court is held by the County Judge in each county, and is the court in which most of the smaller offenses are tried. He is also judge of probate. As such he is the officer who probates or proves wills, looks after the estates of deceased persons, issues letters of administration, supervises the property interests of minor heirs, etc.

Justices of the Peace are the smallest of the courts and have limited jurisdiction. Each county is divided into at least two justice peace districts; most counties having a half dozen or more. Their function is to try the petty offenses occur-

ring in their district, and determine civil causes wherein the amounts involved are small.

## QUESTIONS ON CHAPTER EIGHTEEN

1. What is the chief function of the judicial department of the State government?
2. In what courts are criminal trials and civil suits maintained?
3. Give the number of justices of the Supreme Court.
4. Name two qualifications for a justice of the Supreme Court?
5. For how long are the justices elected?
6. How is the chief justice chosen?
7. If a man was charged with murder could the trial be held in the Supreme Court?
8. What is the chief function of the Supreme Court? Name two others.
9. Discuss the "judicial veto" of legislation.
10. Name five writs which the Supreme Court may issue. Can you tell briefly the purpose of each?
11. What can you say of the decisions of the Supreme Court?
12. How frequently are sessions or terms of the Circuit Courts held?
13. How long is the term of a Circuit judge? Of a State attorney?
14. What other courts are there in the judicial department?

## CHAPTER XIX

## COURT PROCEDURE: RESPECT FOR THE COURTS AND THE LAW

**Due Process of Law.**—Proceedings in courts, especially the more important tribunals, are attended with dignity, order, and strict care that every right of every party concerned in its action shall have due consideration. Courts are and should be deliberate in their procedure. Because of the great care which must be taken not to deprive any person of rights until they have had ample opportunity to be heard and ample opportunity be given for consideration by the courts, some people complain of the slowness with which the “Wheels of Justice” some times move. It is far better that the courts move slowly and deliberately and give justice in the end than to permit hasty and inconsiderate action which might do wrongs impossible ever to rectify. One of the most important rights guaranteed to the citizen is that he shall not be deprived of life, liberty or property without “due process of law.”

Causes of action by the courts are divided into *Criminal trials* and *Civil actions*. A criminal trial is the process of determining if a person accused of committing a criminal act is guilty or not guilty of the crime of which he was charged. A crime is a breach of the positive law. There are crimes of omission as well as commission; that is a person can violate the law by failing to do what the law says must be done, as well as to do that which the law says must not be done.

Most crimes for which persons are convicted, however, are crimes of commission.

**Prosecution for Crime.**—Criminal procedure is the orderly steps taken in a criminal trial and begins by the arrest of the accused, which may be with or without warrant. Ordinarily arrests are not made without a warrant first being



procured but if a police officer or sheriff should see a person in the act of committing a crime or disturbing the peace it would become the officer's duty to arrest him. A person under suspicion of crime may be arrested and held temporarily while investigation is made. The accused or defendant is committed to prison pending his trial unless he gives bail. The defendant is permitted to give bail in all cases except where the penalty for the crime is death. Bail is a bond that the accused will appear for trial. Every one accused of crime is guaranteed by the Constitution the right to a speedy trial. But usually both the prosecution and the defendant desire some time to prepare for the trial. After the arrest the formal charge is made, if it has not already been made, either in an *affidavit*, *information*, or *indictment*. The defendant is then brought before the bar of the court and *arraigned*, that is, he is caused to stand up and the formal charge on which he is accused is read to him. He is asked the question if he is guilty or not guilty. If no defense is desired but the accused wishes to admit guilt, he may plead "guilty" whereupon no trial would be necessary. It would then remain only to pass sentence. But if the defendant, however, desires to make a defense the plea of "not guilty" is entered. Then the question for trial is presented. Delays are some times asked by both sides, but usually by the defense, and the judge decides if the delay shall be granted and for what time.

If the accused is found guilty of the crime he stands convicted and the sentence is announced by the judge. The defendant has the right to be present in person to face his accusers during the trial, and if convicted he has the right to be present when sentence is passed and privileged to make a statement to the court as to any reason he desires to offer why the sentence of the law should not be passed upon him. The defendant also has the right of trial by a jury except in cases where the offense is slight and the penalty small. The jury

decides only the question of the guilt, they do not fix the penalty.

Penalties are fixed by the law and the judge. The law states what the exact penalty shall be in certain cases and in others it describes the kind and the limit of penalties leaving to the judge certain discretion as to the amount of penalty within certain limitations. For example, if a person be convicted of murder in the first degree and no mercy is recommended by the jury, the law fixes the penalty as death; if the jury recommends to mercy, then life imprisonment. But if a man be convicted of manslaughter he may be sentenced to imprisonment for such time as the judge determines, not to exceed twenty years. Most penalties are fixed at not more than a certain maximum leaving the judge to impose a lighter sentence if he thinks best. Some few crimes, because of their prevalence and the desire of the Legislature to effectively stamp them out, are attended by minimum penalties, that is not less than a certain amount of fine or time of imprisonment. Minimum penalties are attached to the law against cattle stealing and for second offenses against the law prohibiting the sale of intoxicating liquors. As a general rule minimum penalties are unwise but are justified in cases where laws are persistently and flagrantly violated.

Cruel and unusual punishments are prohibited by the Constitution. Sentences passed upon persons convicted of crime are either fines or imprisonment, or both fine and imprisonment, except in cases where the death sentence is imposed. Death sentences are executed by hanging by the neck until dead. The day for the execution is named by the Governor and the "Death Warrant" is signed by the Governor before the execution takes place. For offenses of less grade the sentence is usually either the payment of a fine or a prison sentence, or both. In some cases a prison sentence is imposed without the privilege of paying a fine in lieu thereof.

Prosecutions for crime are made in the name of the State because it is the province of the State to preserve order and protect the people in their rights to life and to safety of person and property. The courts in which trials for misdemeanors or crime may take place are the Justice Peace Courts, County Judge's Courts, County Courts, Criminal Courts of Record and the Circuit Court, the jurisdiction of these courts being dependent mainly upon the gravity of the crime charged. If it takes place in the Justice Peace Court, or County Judge's Court it is begun on an affidavit; if in the County Court or Criminal Court of Record it is begun on an *information* filed by the prosecuting attorney and if in the Circuit Court, after the grand jury has investigated the case and filed an *indictment*.

**Civil Actions.**—Civil procedure or the proceedings in the court where actions at law or in equity are tried, is not carried out by the same rules as criminal trials. Attorneys represent the parties and the party who brings the suit is called the *plaintiff* and the one against whom the suit is brought is called the *defendant*.

The preliminary steps in civil suits are first to get clearly defined just what is the issue to be tried and then if the facts in the case be in dispute to determine them. When the issue and the facts are clear the law governing the matter is applied by the court. The many kinds of suits or civil actions that may be tried in the courts are too numerous to discuss them at length in a volume of this size. They are mentioned here simply because it is one of the functions of the courts, as a part of the governmental machinery to dispense justice, and this entails the settlement of disputed questions between individuals as to personal rights and property rights.

**Respect for the Courts.**—A wholesome respect for the law should be inculcated in the youths, for as future citizens



they ought to have a proper regard for that arm of the government which is to protect them in their most sacred rights and which is to dispense impartial justice. In theory the courts are the vital expression of justice and the law. Unless the citizen has a proper respect for the law, for justice and for the rights of others he is not fit to be a citizen and enjoy the benefits and privileges of our government. Some may say that the courts do not always give exact justice and that rights are not always evenly protected. This can be answered by saying that all governmental agencies while administered by human beings cannot be perfect in their operation; but the law and the courts of our land are the results of centuries of the best thought and the best care of our ablest men. They are, therefore, as near perfect as our present experience and judgment can make them, and when honestly and conscientiously administered, their working will be as perfect as human intelligence can devise. One of the chief aims of the teacher of civil government should be to inspire in his pupils an intelligent and wholesome respect for law and for the courts.

**Mob Law is Never Right.**—Mob law should never be condoned. Sometimes a group of citizens think some act so heinous as to justify taking the law into their own hands and meting out summary punishment. They seek to justify these acts under the excuse of “the unwritten law” but such instances only have their influence in bringing the law into disrespect. If left to the duly organized courts and the laws of the State few such cases would ever go unpunished.

The “Hue and Cry” is the outcome of exciting the mob spirit directed against some individual or group. The mob spirit when invoked is dangerous for it acts upon inflamed or excited prejudices and is the very antithesis of calm deliberate reason.



## QUESTIONS ON CHAPTER NINETEEN

1. What is the reason for the careful and orderly procedure of courts?
2. What can you say of the complaints sometimes heard of the slowness of court procedure?
3. What are the two general classifications of court cases?
4. What is a crime? In what two ways may it be committed?
5. How are criminal prosecutions begun? What is bail?
6. What is done when a person is arraigned?
7. Who pronounces sentence on those convicted of crime?
8. How is the penalty for crime fixed or determined?
9. What can you say of maximum and minimum penalties?
10. What three forms of penalties are mentioned?
11. How is the penalty and sentence of death executed?
12. Why is prosecution for crime brought in the name of the State?
13. What can you say of the importance of due regard and respect for the law and the courts?
14. Why is the mob spirit dangerous? What is the "Hue and Cry."

## CHAPTER XX

THE STATUTES AND THE COMMON LAW; TRIAL BY JURY;  
THE RIGHT OF APPEAL

**The Common Law.**—The Common Law of England was and is the customs and system of law that has been accumulating for centuries as legal determinations in England. It forms the basis of the English legal system and has been adopted in all the States of the United States except one. The written law or the statutes cannot cover every possible situation that may arise in the courts and where there is no statute to govern the common law governs.

The statutes are the laws enacted by the Legislature. In all cases covered by statute, if the statute be constitutional, the statute governs exclusively; if no statute directly covers the question, then if it has been at any previous time decided by the Supreme Court of the State this previous decision of the matter usually governs. The English Common Law is only adopted in the United States insofar as it is applicable to our American institutions.

**The Origin and Growth of the English Common Law.**—It is both interesting and important to study briefly the origin of the English Common Law; interesting because of the manner of its development, and important because it is linked with the development of the civilization and government of the English speaking countries. Blackstone, the great English authority on law, says in his commentaries that this unwritten or common law is of three kinds: “1. General customs; which are the universal rule of the whole kingdom. 2. Particular customs; which for the most part affect only the inhabitants of particular districts. 3. Certain particular laws, which, by

custom, are adopted and used by courts of general and extensive jurisdiction."

There are many matters affecting our every day experiences which in our own country are covered or attempted to be covered by written law or statutes, but which in England are simply fixed and well known customs, which in that country have never been enacted into written statutes, but which, nevertheless, are just as binding on the courts in the administration of the law of the land.

If the student will think over his own observations he may recall customs we have which we consider binding, yet are not specifically treated in written laws—for example the formality of raising the right hand in taking an oath in open court.

The manner of conveying the title to land in early English days, one of the most important matters, was governed by a custom. At one time in England when one acquired lands of another, they went together on to the land, the vendor broke a twig or limb from a tree or took a handful of the soil and handed to the new owner. This formality conveyed the title of the property. There were many and varied customs which the people considered as binding and which the courts enforced and so they had the force and effect of what we understand as the law. Many of these in whole or in part, which have survived, have been included in our written laws. One of the briefest and clearest definitions of the common law is found in Robinson's *Elementary Law and Elements of American Jurisprudence*. He says: "The common law (called also the unwritten law, or from its mode of development, the customary law) embraces those rules of civil conduct which originated in the common wisdom and experience of society, became in time established customs, and finally received judicial sanction and affirmance in the decisions of courts of last resort."

**Statutes or Written Laws.**—Laws enacted by the Legislature are called statutes. They are written or printed and deal specifically with the subjects they are designed to cover. Some are quite lengthy and in printed form those now in force in our State fill two large volumes. In the early days of English history, when the first written laws of England were promulgated, the statutes were very brief and simply worded. In the reign of King Ethelbert (A. D. 600) his code of law consisted of ninety paragraphs and were quite terse. One of these read: "If a man slay another in the Kings 'tun' let him make 'bot' with L. shillings." Nearly all possible bodily injuries were enumerated and the specific fine for each set down. For a broken arm, a broken collar bone, a stab in the arm, or knocking out the four front teeth the fine was six shillings. To cut off another's foot would cost fifty shillings, but if only his big toe was severed the fine was ten shillings.

As English civil government developed the statutes of parliament were supreme—though in some of the troublous times between King and parliament the King was inclined to make his own statutes. Parliament eventually settled the matter effectively. During the reign of Richard II, a chief justice was hanged because he advised the King that a statute curtailing the royal power was void. An act of parliament cannot be set aside as "unconstitutional" in England. But, as stated in a previous chapter, in this country and in our own State an act of the Legislature must conform to the Constitution or it will be declared void by the courts.

**The Right of Trial by Jury.**—This is one of the rights guaranteed by the Constitution and one of those most highly prized by our forefathers. It had been gained with the early English liberties and came to America as one of the rights of the people to be sacredly guarded in the formation of any government that might be established. Its theory is that any



person accused of crime may have his guilt or innocence determined by a jury of his own peers or his equals. Juries vary in size. Grand juries in this State consist of eighteen men. The grand jury indicts upon finding probable guilt but does not try cases. Neither do their findings require unanimous vote of their members. Cases are tried by petit juries which consist of six men except in cases where punishment may be death and in certain civil proceedings the jury is composed of twelve. The jurors are supposed to be impartial and their decision must be unanimous. The decision of a petit jury is called its verdict.

**Origin of Jury Trials.**—It was in the early days in England when the country was sparsely settled that trials by juries first came into practice. The jury were the neighbors of the accused and decided the case from what they themselves knew of it—for there was little of the community happenings but that were well known to all the neighbors. The jury did not need to have witnesses called in to give the facts. As the population increased and life became more complex juries became more as they are today, the agency or body to weigh the evidence and testimony of witnesses and decide from that testimony what were the facts and the guilt or innocence of the accused.

The origin of our present day grand jury was probably the Frankish inquest. The English kings employed the inquest for detecting crime. Representatives from each neighborhood were asked by royal officers: "Do you suspect any of murder, robbery, larceny or the like?" So from these early methods of ascertaining from a man's neighbors if he were suspected of crime, and from another group of his neighbors if he were guilty or innocent, grew our present day grand jury and petit jury. The trial by jury took the place of the ancient trial by battle, the ordeal, and superstitious practices.

**The Right of Appeal.**—This right is one of ancient origin. Back in the days of the Roman Empire the Roman citizen could appeal his case to the Emperor himself. In our State most criminal convictions and civil actions where any considerable sum is involved may be appealed to a higher court than the trial court. The higher court reviews the case only to see if any error has occurred in the conduct of the trial, or if the law is constitutional which the defendant is charged with violating. If so and it is one which might have affected the results in any wise then the case must be tried anew. If the law is found unconstitutional, the conviction of course is void. If the appellate court does not find the trial court has made any harmful mistakes in the conduct of the case judgment is affirmed and the verdict stands.

#### QUESTIONS ON CHAPTER TWENTY

1. What is the Common Law of England? To what extent is it adopted in this country?
2. When is the common law resorted to?
3. Can you give briefly the origin of the English Common Law?
4. Can you think of some custom which we accept as binding yet is not mentioned specially in the law?
5. What was an early method of conveying title to land?
6. What is a statute? Are there many statutes in force in Florida?
7. How long was King Ethelbert's code? Under that code of statutes or laws what was the penalty for knocking out a person's front teeth?
8. What body enacts the laws in England?
9. For what reason may a law passed by our Legislature be declared void?
10. What can you say of the right of trial by jury? What is meant by a jury of your peers?
11. What was the early form of jury trials?
12. What two kinds of juries do we have?
13. What is the function of the grand jury?
14. How did it probably originate?
15. When cases are appealed to a higher court what two questions may be raised?

## CHAPTER XXI

## ELECTIONS AND THE DUTY OF ELECTORS

**The Privilege of Voting.**—In the first chapters of this volume it was explained that a pure democracy would be a government in which all the citizens made the laws and enforced them. Such is manifestly impractical in a country or State of any size. But while every citizen may not directly take part in shaping the affairs of government every one who is or may be qualified to vote can take part as a voter in the elections and thus aid in influencing the government. It is the duty of every one privileged to vote, to qualify and exercise that privilege, casting his vote for the men and measures he believes will best serve the welfare of the State.

**The Election System.**—How elections are held is in a general way known to all, but the machinery of an election will be briefly discussed. The purpose of an election is to give the voters opportunity to express their choice of men for filling office, or for or against some proposed measure. There are various occasions for holding special elections to determine special questions but *general elections* are held only every two years. These are held in November of even numbered years.

**Who May Vote.**—Voting is not an inherent right and was limited by the Constitution to male persons twenty-one years of age or over, citizens of the United States, and who have been residents of the State for at least twelve months and the county six months. This limitation is now modified by the recent amendment to the Constitution of the United States which allows women equal privileges with men in respect to voting. There are certain restrictions as to registration, and those *non compos mentis* or insane or who are under



guardianship are not permitted to vote. Neither can those who have been convicted of a felony vote unless they have been fully pardoned for the purpose of restoring their civil rights. The payment of a *poll tax* is a prerequisite to voting if the poll tax be legally due.

**Voters Must Register.**—Registrations of qualified electors or voters are made so that only those lawfully entitled to vote may take part in elections. These lists are in the custody of the supervisor of registration in each county. The registration books are opened at stated seasons so those who have become qualified may register.

Voting precincts or election districts are subdivisions of the counties and are laid out with a view of having all voters within it convenient to a voting place. In each precinct or district is a polling place where the election managers meet on election day with the ballot box, ballots, voting lists, etc., and with the clerk of the election proceed to supervise the election in that precinct.

The ballot boxes are emptied, locked and only a slot left as an opening. The election managers determine who are qualified to vote and hand each of such persons a *ballot* when he presents himself, whereupon the voter retires to a *booth*, which is a curtained space in the same room, and then he indicates with a X mark the names of his choice for the officers to be elected. He then folds it and drops it through the slot into the ballot box. He puts nothing on it to distinguish it from any other ballot so when the ballots are taken from the box by the managers at the close of the day to be counted no one can tell one voter's ballot from another. So a man may, if he chooses, keep his ballot a secret. This system of voting is called the Australian ballot system.

The precinct election managers tabulate the votes of their precinct and forward to the county seat where the county can-



vassing board tabulates all the precincts and forwards the results for that county to the State canvassing board.

The person who receives a *plurality* of the votes cast for any office is elected to that office. A plurality is not necessarily a majority. If there were three candidates for one office and there had been in all one hundred votes cast for that office; candidate A receiving 30, candidate B receiving 25, and candidate C receiving 45, candidate C would have a *plurality*. If A had received 20, B 25 and C 55, then C would have a *majority* of the votes cast.

**Primary Elections.**—Party primary elections are provided for so that members of a political party may determine candidates of their choice prior to the general election and these men so chosen will be the candidates of that party in the general election. Since the Democratic party in Florida is very much in the majority in voting strength whoever are chosen as its candidates are nearly always elected. So a Democratic primary election is usually of more interest in Florida than is the general election. The primary election is usually held in the early summer of the same year in which the general election is held and the manner of conducting the voting is much the same as in the general election.

**Honest and Fair Elections.**—Corrupt practices, such as the use of money to buy votes, the hiring of paid workers to work for the election of some particular candidate, the spending of large sums of money in the campaigns, etc., have at times been prevalent. Many of these are now prohibited or strictly regulated by law. This law is called the "Corrupt Practice Act" and has accomplished much good in making the conduct of political campaigns cleaner than before.

The primary law or the statutes governing the conduct of the primaries, while providing much the same machinery for holding the election as the general election law, undertakes to

go into more details. For instance the question of whether one or two primary elections should be held, or whether the first and second choice method of voting should be adopted and only one primary. At present only one primary is held and a first choice and second choice method of voting is provided. One reason why it is more difficult to get a satisfactory primary law is that the Democratic party believes in the *majority* rule and that a candidate to be the nominee of the party should receive a majority of all the votes cast. It is not always practical to do this, however, if only one primary is held. There might be a number of candidates for the one office and no one of them receive a *majority* in the first primary.

The chief characteristics of our primary election laws are that they provide for all qualified voters who agree to support the nominees of the party to have a direct part in the nomination of its candidates, expressing their choice through the medium of the secret ballot and which ballot is sacredly preserved from fraud and carefully counted as part of the results of the election.

**Duties of the Citizen.**—It is the duty of every citizen to post themselves on the public measures and public men of prominence in their State. Every citizen eligible to vote should be sure to qualify and vote as a part of his patriotic duty. He should be so well posted on the issues of the campaign and the qualifications of candidates aspiring to office that he can intelligently discriminate for himself and so cast his ballot that it will count for the best interest of the community, State or Nation.

**Woman Suffrage.**—Until very recently the right to vote was not granted to women in this State. They now have the same privilege in voting as do the men. This privilege or right while for many years under consideration in the Nation

was spoken of as "Woman Suffrage," meaning the right of women to vote in governmental affairs. Woman's influence in all affairs of life springing almost always from pure motives and lofty ideals, it logically follows if she but carefully study governmental problems the exercise of her right to vote will result in bringing about improvements in our laws and in their enforcement.

Since development of governmental ideas and improvement in civil government, community life, etc., has been one of slow growth—this development depending upon the education of the individual citizen and his awakening to nobler ideals and the need for better conditions; so we may not expect to see the influence of the enfranchising of women develop rapid or radical changes in governmental affairs. The women voters in the mass must have time to acquaint themselves with their privileges and duties as voters. Their influence will be surely felt and it is safe to say will be for the continued betterment of government.

**The Ballot.**—As before mentioned we use the Australian ballot system in voting. The ballot is a strip of paper on which is printed the names of those who have qualified as candidates for the several offices to be filled. The elector has only to place a cross mark (X) opposite the name of the candidate for whom he desires to vote. The following is a sample form of a portion of a ballot. It will give the student an idea of the kind of ballot he will use when he or she becomes of age and is a qualified voter:

## FOR GOVERNOR

Vote for one:

---

William Jones.

---

---

John Smith.

---

## FOR SECRETARY OF STATE

Vote for one:

---

William King.

---

---

James Moore.

---

---

James Simpson.

---

## QUESTIONS ON CHAPTER TWENTY-ONE

1. May every citizen have a direct part in governmental affairs?
2. How may every qualified elector exert his influence in the government?
3. What is the purpose of elections? When are general elections held?
4. Is the right to vote an inherent one?
5. Who may qualify to vote and how?
6. How can a person once qualified to vote lose the right?
7. What is the purpose of registering those qualified to vote?
8. Where are elections held and under whose supervision?
9. Give the procedure in voting at an election?
10. What number of votes are necessary to elect to an office?
11. Explain the difference between a plurality and a majority.
12. What are primary elections? What are their purpose and when are they held?
13. What is the duty of the citizen with regard to elections?
14. What can you say of the probable effect of extending the right of voting to women?
15. What system of balloting do we use?



## CHAPTER XXII

## OUR REPRESENTATION IN THE NATIONAL CONGRESS

**United States Senators and Members of Congress.—**

The Constitution of the United States provides that every State shall have two Senators in the United States Senate and a number of members of Congress dependent upon the population of the State. The number of Senators from a State does not change. United States Senators were until very recently elected by the Legislature of the State. They are now elected directly by the people. Their term of office is for six years and they spend most of their time in Washington, the National capital. The office of United States Senator is looked upon as one of great honor and dignity as these two men represent the State in the councils of the Nation, and the United States Senate is often referred to as the greatest deliberative body in the world.

The number of members from each State to the lower house of Congress—the House of Representatives—is fixed after each National census, which is every ten years. Florida now has four members of the National House of Representatives. They are designated as Members of Congress. They are chosen by the people of the district which they represent, the State being divided into four congressional districts, and one Congressman chosen from each district. Their term of office is only two years, but their salary is the same as that of a United States Senator, seven thousand five hundred dollars per year, and mileage.

**Terms of Senators and Congressmen.—**The difference in the terms of a Congressman and a United States Senator is accounted for by the fact that the United States Senators are supposed to represent the States as integral commonwealths,

are supposed to be more concerned with the relation of State to State and State to Nation and our Nation to foreign Nations. Experience counts considerably with them. The Senate is a continuing body, that is only one-third of its members are elected every two years so that in each Congress at least two-thirds of the Senators have had previous experience.

Members of the House of Representatives are supposed to represent the people directly and their short term was designed so that the sentiment of the people as a whole on any issue that arose could be early reflected in the membership of Congress, and the frequent return for election of a member would better insure the correct representation of public sentiment in the National Congress.

**Congressional Districts.**—The congressional districts of the State are divided, as nearly as possible, equally in population, but each district must consist of whole counties and the counties comprising the district must be contiguous. The shaping of a district to suit the interests of some would-be congressman was once much practiced by State Legislatures and often very odd-shaped districts were the results. This was called *gerrymandering*.

All school boys and school girls old enough to study civil government should learn the name of the Congressman from their district and the names of the two United States Senators who represent their State. It is well to keep in mind, too, that these are officers of the United States Government, though representatives of that portion of the people of the United States who constitute the State of Florida.

**How and When Elected.**—United States Senators and members of Congress are voted for at the same time and places as members of the most numerous branch of the State Legislature. A Member of Congress is to be voted for at each general election, for a Congressman's term is but two years, but

since a United States Senator is elected for six years there is none to be elected at every third general election, unless there happens to be a vacancy existing then by reason of the death or resignation of one of the Senators.

**Qualifications.**—"No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen." The foregoing is the wording of the Constitution of the United States giving the qualifications for a member of the National House of Representatives. It prescribes the qualifications of United States Senators in the following language: "No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of the State for which he shall be chosen."

**How We Vote for President of the United States.**—The election of a President of the United States is an interesting and important event. The procedure, however, is not one with which all the people are familiar. As voters we do not vote for a candidate direct. That is, the names of the candidates for President do not appear on the election ballot, but instead there are on the ballot the names of persons to be voted for as presidential electors and those chosen as such vote for President and Vice-President of the United States. Each State is entitled to as many votes for President and Vice-President as it has members of Congress. Florida, having four congressmen in addition to her two United States Senators, therefore has six votes for President and Vice-President.

Presidential electors are chosen every four years at the general election preceding the close of the term of a President. Since each political party of any consequence nominates a can-



didate for President, such parties nominate presidential electors and these names appear on the ballots and are voted for by the voters in the election. For example, the Democratic party in Florida through primary elections held preceding the general election, chooses candidates for presidential electors, choosing as many as Florida would be entitled to have, which at present is six. These names are on the general election ballots, so are the names of the six candidates of the other political parties in the State. There is nothing on the ballot to indicate the political party to which either belongs, but the well informed voter informs himself in advance and votes for those six whom he knows represent his political party and who will in turn vote for the candidate for President he favors.

The presidential electors chosen in each State meet at the time and place designated by law and vote for President and Vice-President and this vote, sealed, is sent to the President of the United States Senate. He opens them in the presence of the Senate and the House of Representatives and they are then counted.

Of course long before the votes of the electors are thus counted the whole Nation knows who will be President and Vice-President, for, as before stated, it is known for whom the electors will vote as soon as they are chosen. There have been occasions, however, when the vote was very close and the final result of a presidential election would be in doubt until settled by Congress.

Should no candidate for President and Vice-President receive a majority of the votes cast by the electors then the House of Representatives chooses a President and the Senate a Vice-President.



QUESTIONS ON CHAPTER TWENTY-TWO.

1. Upon what basis is the representation of a state in the National House of Representatives?
2. How many Members of Congress has Florida?
3. Who is the Congressman from your district? In what congressional district do you live?
4. How many United States Senators are there from Florida? Who are they?
5. For what length term is a Congressman elected? A Senator?
6. What salaries do United States Senators and Congressmen receive?
7. Why was the term of Congressmen made shorter than that of the United States Senators?
8. What is said of the shape and formation of congressional districts?
9. What qualifications are required for a Representative in Congress?
10. What are the qualifications required for United States Senator?
11. When a President of the United States is elected is he voted for directly by the people? What method of election is provided?
12. If the presidential electors should fail to elect a President and Vice-President, how would the President be chosen? The Vice-President.
13. Is it possible for a candidate for President to be the choice of a majority of the people of the United States and still not be elected President?

QUESTION FOR DEBATE

Resolved; That the President and Vice-President of the United States should be chosen by direct vote of the people.

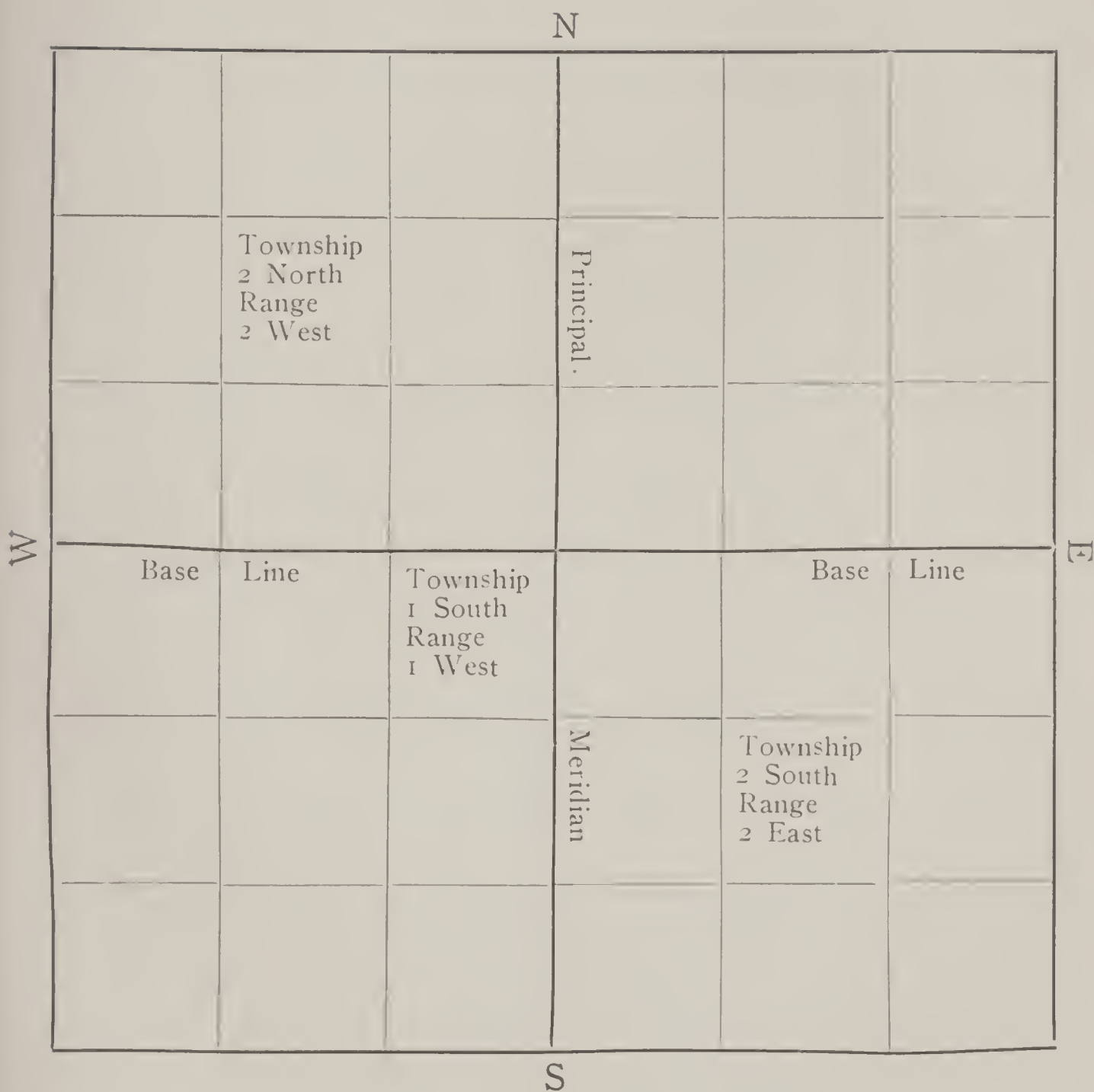
## CHAPTER XXIII

## LAND SURVEYS AND LAND TITLES

**How Lands are Surveyed.**—The Government System of land surveys, that is the system adopted by the United States government, is the one in use in Florida. It is based on the plan of establishing one principal meridian and all east and west distances being counted from that line; and adopting one base line or range line running east and west from which distances north and south can be designated. Florida has adopted that meridian and parallel which run through Tallahassee, the capital city. The intersection of these two lines, the principal meridian and base line, is established by a permanent marker.

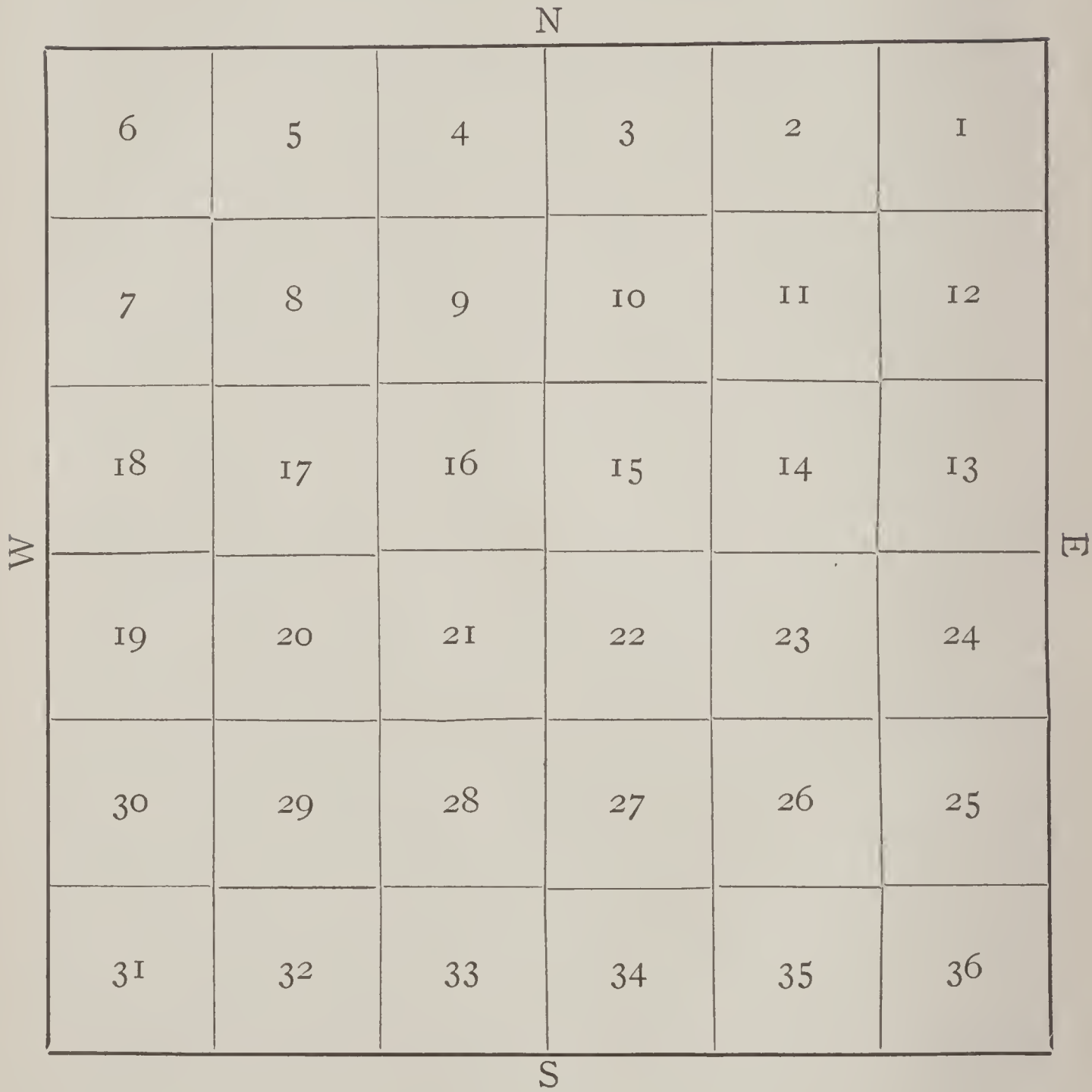
Surveys are important because a land owner needs to be able to tell just where his land is, and be able to locate any part of it. The main divisions are called townships and are six miles square. They are divided into sections, each section being one mile square, which makes 36 sections to a township. The sections contain 640 acres and are divided into halves and quarters, etc. The following drawings will illustrate the system.

Townships are six miles long north and south and six miles wide east and west if they are just north of a base line or a correction line. Correction lines are necessary because meridian lines converge as they approach the north and south poles. As these correction lines are run at frequent intervals the variance in the width of townships is not great and it may be said that a township of land is six miles square and contains thirty-six sections of land, each section being one mile square.



(Figure 1.)

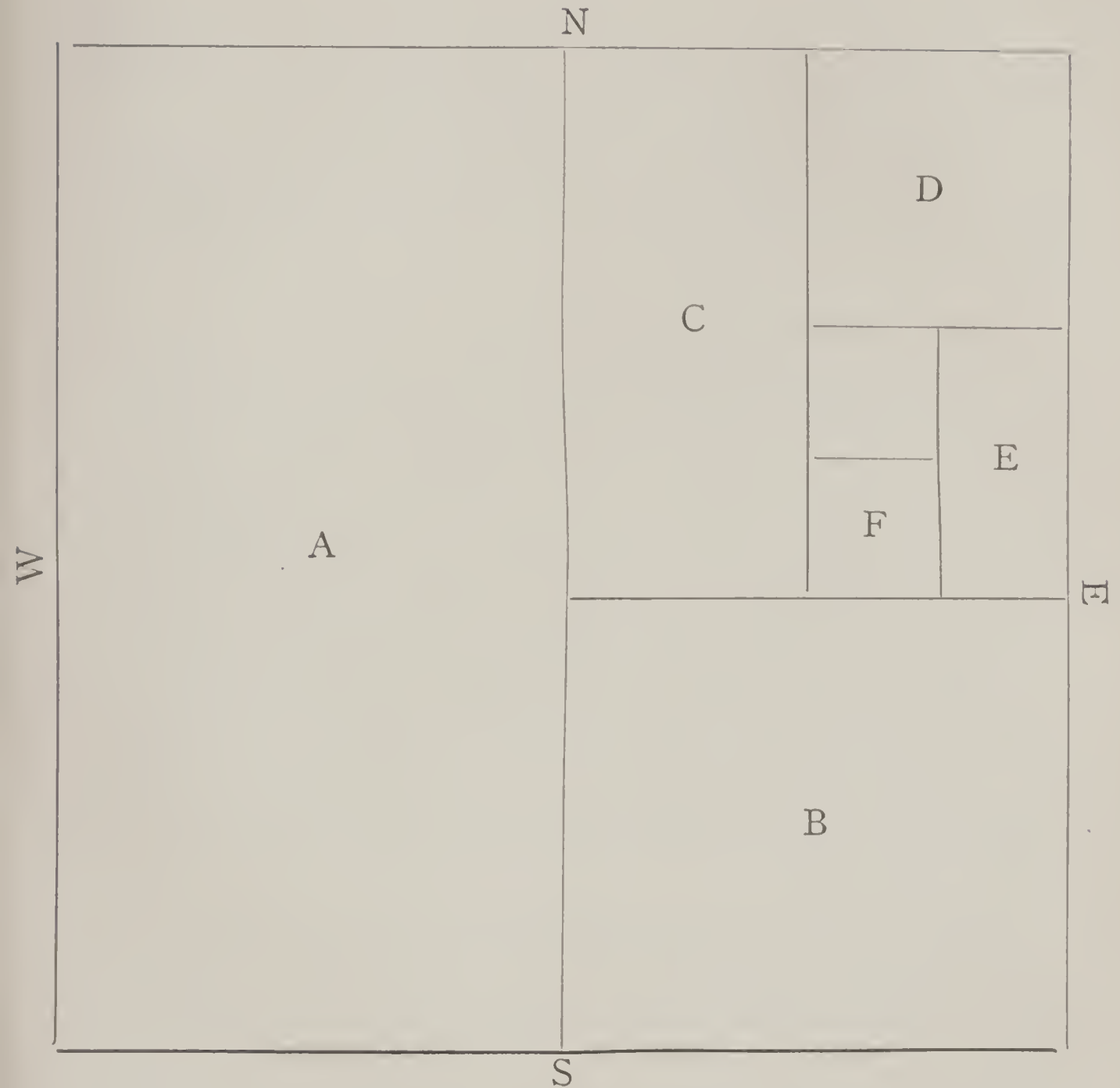
The above drawing shows how townships are laid off and designated.



(Figure 2)

The above illustrates a township divided into sections and the system of numbering sections.





(Figure 3)

In the above drawing of a section of land

A represents the  $W\frac{1}{2}$  of the section and contains 320 acres.

B represents the  $SE\frac{1}{4}$  of the section and contains 160 acres.

C represents the  $W\frac{1}{2}$  of the  $NE\frac{1}{4}$  of the section and contains 80 acres.

D represents the  $NE\frac{1}{4}$  of the  $NE\frac{1}{4}$  of the section and contains 40 acres.

E represents the  $E\frac{1}{2}$  of the  $SE\frac{1}{4}$  of the  $NE\frac{1}{4}$  of the section and contains 20 acres.

F represents the  $SW\frac{1}{4}$  of the  $SE\frac{1}{4}$  of the  $NE\frac{1}{4}$  of the section and contains 10 acres.

Cities and towns and some times special tracts of lands are divided up into lots and blocks, these being more convenient designations on account of their relatively small size.

A system of surveys in vogue in some places is one of describing the "metes and bounds" and parcels of land of irregular shape are sometimes surveyed and described that way in this State.

**The Title to Land.**—The title to land is the clear right of ownership. The ownership or title to land is supposed to be recorded in the public records; and the transfer of title to land should be recorded in each instance. If the owner during his life time desires to sell or part with the title to land he does so usually by an instrument of writing called a *deed*. This deed contains the formal wording necessary to convey the title and contains a description of the land to be conveyed.

There are many ways in which people some time lay claim to land, and owners sometimes fail to pay taxes due upon it, and so the title is not entirely clear from claims or possibilities of lawful claims in which case there is said to be a "cloud" on the title. Land owners should be careful to keep the titles to their land "clear."

Provision is made for all deeds and other instruments affecting titles to land to be recorded in the office of the Clerk of the Circuit Court in the county in which the land is situated.

The ownership and title to land is safeguarded by the law with many formal requirements in its transfer. Therefore, one purchasing land should be careful to see that the title to the land is clear. In some previous conveyance or attempted conveyance of the title something may have been omitted which would cause a defect in the title of the person who thought he owned the piece of land. As stated above, the title to land is transferred between living persons usually by a written in-

strument called a deed. One may also acquire title to land by inheritance. There are other means, more technical than would be discussed in a volume of this size, whereby title to or interests in lands may be transferred voluntarily or involuntarily. The title to land carries with it the buildings thereon with the fixtures in the buildings.

#### QUESTIONS ON CHAPTER TWENTY-THREE

1. What system of land surveys is in use in Florida?
2. Upon what is it based?
3. Where do the principal meridian and base line for Florida surveys intersect?
4. What are the main divisions of the survey called? How large is each?
5. How large is a section of land?
6. How many acres in a section?
7. Draw a diagram showing the principal meridian and base line and locate in the diagram Township 2 South, Range 6 East.
8. How many miles east of Tallahassee would be the west boundary line of this township?
9. How many miles south of Tallahassee would be the southern boundary line of the same township?
10. Why are correction lines necessary?
11. Draw a diagram of a township divided into sections and number the sections.
12. What section is just south of section 1?
13. What section in the adjoining township north would be adjacent to section 1 in your diagram?
14. Draw a diagram of a section of land and locate in it the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$ .
15. How many acres would the space described contain?
16. What is the title to land?
17. By what instrument of writing is the title to land usually conveyed?
18. Where are deeds and other instruments affecting title to land recorded?

## CHAPTER XXIV

## TAXATION

**The Purpose of Taxation.**—Taxation in general has always been quite a governmental problem. It is an ever present problem for those who make and execute the laws. It is very apparent that no sort of government could be maintained without money to pay the necessary expenses; and the more the government expands and extends the governmental agencies for the general welfare of the people the more money is needed. The method of raising this money is called *taxation*.

The methods of taxation in use in our State are *ad valorem* taxes, privilege taxes, license taxes and *per capita* taxes. All lands and personal property of every kind which can be located for assessment are taxed at a certain per cent of the value. Such is an *ad valorem tax*. Every corporation organized in the State or which enters the State for transacting business must pay a certain tax,\* based on its capital stock, for the right to exist or operate as a corporation in the State; such would be a privilege tax. A license tax is charged (which is also in the nature of a privilege tax) on a great many different occupations. Every citizen between the ages of 21 and 55 is supposed to pay a *poll tax* or *per capita* tax of one dollar per year. The payment of this poll tax is made a prerequisite to voting, if the same be due.

**Fixing Values for Taxation.**—Valuation of property of all kinds is necessary in making an *ad valorem* tax assessment. The owner has the privilege of handing in a list of his property and placing a valuation on it. This will not be raised without he be given notice and a hearing. The tax assessor places a valuation on all real and personal property for assessment purposes except the railroad and telegraph lines, which



are assessed by the State Comptroller. Real property is land and improvements attached thereto. Other property is classed as personal.

The County Tax Assessor lists the property, both real and personal, and enters the values thereon for purposes of taxation, in a book called the tax roll of the county. He includes the railroad and telegraph lines (including Pullman cars), as furnished him by the State Comptroller.

**Equalizing Tax Valuations.**—The assessment roll is then turned over to the county commissioners who revise it, lowering or raising valuations where in their judgment it is required to make the same uniform and just. Property owners may then be heard on any complaints. The State Tax Equalizer may direct changes he deems necessary to make valuations uniform as between counties. If any disagreement arises between him and the county commissioners, or as to the valuations placed on railroad and telegraph properties by the State Comptroller, then the matter may be appealed to the State Board of Equalizers who reviews and determines the disputed cases.

**The Rate of Taxation.**—When the valuation of the property has been determined the next question is the rate of taxation, or what per centum of its value, is to be charged against it as taxes. The State tax rate is fixed by the Legislature but the Governor has power to lower the State tax in certain cases. The Legislature also fixes the maximum limitations of the county rates, but the county commissioners may determine what the rate shall be within the limitation prescribed. The Constitution provides for a State tax of one mill on the dollar for the public schools, and also prescribes the minimum and maximum rates in the counties for school purposes. The rate of the special tax in school districts for school purposes is determined by a vote of the electors. The

amount of the State tax to be levied is certified to the county by the State Comptroller, the county commissioners certify the county tax rate and with this information the county assessor is ready to compute the amount for each property as assessed in the tax roll. The remaining procedure was outlined in the chapter giving the duties of county officers.

**Divisions of Tax Moneys.**—The amount of the tax rate to be set aside for each purpose is specified and these divisions are called funds. The usual divisions of the State tax are: General Revenue, Pensions, State Board of Health, One-Mill School, and State Road Fund. The county tax rate is divided into several funds, the more usual divisions being: General Revenue, Fine and Forfeiture, County School, County Roads and Bridges, and Agricultural Fund. The moneys received into each fund are kept separate in that fund and used for the purposes indicated; except that in those not specified by the Constitution the Legislature may make transfers in the State funds and the county commissioners are authorized by law, with the approval of the State Comptroller, to make transfers in certain county funds.

**The Budget System.**—We frequently hear reference to a *budget* of public expenditures. Briefly a budget or budget system is that the amount of public expenditures needed for each purpose is determined or carefully estimated in advance and the rate of taxation decided from that budget, and no expenditures permitted except such as shall have been previously provided for in the budget. The State and the counties have been for some years working along the general line of a budget system and the State recently has provided for a Budget Commission to work out the system more completely in the State's finances.

**Inequalities in Taxation.**—Much complaint is heard from tax payers about high taxes and the inequalities of taxes.

All of those complaints are not well founded, but inequalities have crept in though the system of taxation contemplates that all property shall bear its just proportion of taxation for the support of the government. The county assessors and county commissioners for years past have apparently been of the opinion that property in their county might bear more of the tax burden than the property in some other county if the valuations were placed at their true worth. And so the valuations for tax purposes were placed lower than the true cash or market value. In some counties the average tax value would not be more than one-fourth the true value, others one-third, etc. In this way uniformity in taxation was destroyed. To meet this condition and correct it has been a problem for the Legislature for some time. The latest effort on the part of the Legislature to correct the evil and get true uniformity in taxation was to provide for the State Equalizer of Taxes and the State Board of Equalizers.

**Property Exempt from Taxation.**—Certain property is exempted from taxation by authority granted in the Constitution. Property used for municipal, educational, literary, scientific, religious or charitable purposes comes within this class. Also, widows with dependent family, and those residents who have lost a limb or have been disabled in battle or by misfortune may have property to the value of five hundred dollars exempted.

#### QUESTIONS ON CHAPTER TWENTY-FOUR

1. What is the purpose of taxation?
2. Upon what two methods do we base our tax levies?
3. What is an *ad valorem* tax?
4. What class of tax is a poll tax?
5. The payment of a poll tax—when legally due—is made a prerequisite to the exercise of what privilege?

6. Lands and improvements thereon are classed as what kind of property?
7. What county official makes up the tax roll?
8. What body of men revise the county tax roll?
9. What State official has duties in connection with equalization of tax valuations?
10. To what State board may disputed cases of tax valuations be appealed?
11. By whom is the rate of taxation fixed?
12. May this be changed in any way?
13. What board fixes the rates for the county levies?
14. Who determines the rate of special tax school district taxes?
15. What are the usual funds for which State tax levies are made?
16. Describe briefly a budget system of public finances.
17. What can you say of the lack of uniformity in tax values?
18. What properties are exempt from taxation?
19. What classes of persons have a certain amount of property exempted from taxation?



## CHAPTER XXV

## SAFEGUARDING THE HEALTH OF THE CITIZENS

**The State Board of Health.**—Safeguarding the health of the people is an important function of the State government. The great number of people who die each year from preventable diseases is appalling. More died from diseases, classed as preventable, in the United States during America's participation in the World War than we lost in battle or that died from effects of wounds or injuries received in the war. Some diseases are very contagious and if preventive means were not employed epidemics of these diseases would be frequent and the loss of life occasioned would be alarming.

With the development in the means of travel and the demands of commercial life and business affairs becoming more specialized there is a considerable increase in the numbers of people who are going to and fro, mixing in crowds, and making the rapid spread of communicable diseases more and more a menace to be guarded against.

The agency created by the State to safeguard the health of the people is the State Board of Health. The Board is appointed by the Governor. It elects one of its number president, and employs a physician of experience and standing as State Health Officer who also is executive secretary of the Board. This physician and officer must be an expert in the diagnosis of yellow fever, small pox, cholera and other infectious diseases.

At one time our State was invaded by an epidemic of yellow fever—a disease which since has been almost completely stamped out even in countries where once it was frequently epidemic. Medical science discovered the means of infection to be a certain species of mosquito and its control was made much easier. Medical science has made rapid strides in re-

cent years and there are now many diseases easily controlled which if permitted to become epidemic would exact a tremendous death toll of citizens each year.

The law creating the State Board of Health provides against its members remaining out of the State if disease should become epidemic.

Practicing physicians are required to report to the Board immediately any outbreak of certain diseases.

**The Power to Quarantine.**—Some infectious diseases are transmitted by contact with the patient or with objects which he has handled or used. Hence an isolation of the patient from the public is desirable. Where the conditions make it advisable the State Board of Health may establish a quarantine which is controlling ingress or egress of persons into or from buildings, areas or districts where the disease exists. The Governor is authorized to support such quarantines that they may be made effective by employing armed force if in his judgment it becomes necessary.

**Duties of State Health Officer.**—Under the direction of the State Board of Health he has general supervision of all quarantine systems, may make arrests for violations of quarantine rules and regulations, and may deputize sanitary agents for that purpose.

No quarantines may be instituted by any port, place or county without the authority of the State Board of Health.

**General Powers and Duties of the State Board of Health.**—It disseminates information concerning the cause, nature, extent and prevention of communicable disease. It makes rules concerning sanitation and means of preventing the spread of disease; provides for the investigation and study of the cause of all diseases and for the publication and distribution of information concerning them.

The Board has representatives in every section of the State and is vigilant in the work of guarding the public health.

The means the Board uses for disseminating valuable public health information include almost every known method of informing the public. Leaflets and bulletins are printed and distributed, lecturers visit all communities, stereopticons and moving pictures are used, articles are furnished the press and health exhibits are placed at public fairs and these exhibits have been sent throughout the State in special trains. So the public have been given much valuable information through these agencies tending to lessen the causes and prevent the spread of disease.

The work of the Board extends to disease prevention among animals also. Diseases which cause large losses among horses, hogs and other animals are combatted through assistance rendered by the State Board of Health.

**Some Means of Disease Contagion.**—It has been found out that mosquitoes and flies are carriers of certain disease germs. So rules are promulgated for screening places where flies breed, screening from flies fruits, meats and other foods offered for sale and destroying breeding places of mosquitoes.

Rules for sanitary measures are sent out from the State Board of Health and also city health officers, and violation of these rules may be punished.

**The National Government Aids.**—The work of public health conservation is materially aided by the National Government through the United States Public Health Service. The Nation, the State and the cities co-operate in this important work and the work of public health officers is invaluable to the public.

## QUESTIONS ON CHAPTER TWENTY-FIVE

1. What can you say of the number of deaths each year from preventable diseases?
2. What makes preventive measures against the spread of contagious diseases more and more necessary?
3. What agency is established by the State for safeguarding the health of the citizens?
4. How is this board appointed and how organized?
5. What special qualifications does the law require in the case of the State health officer?
6. What discovery was made with reference to yellow fever?
7. What special requirement does the law make as to the State Board of Health during an epidemic of contagious or infectious disease?
8. What is a quarantine?
9. Who has the power to establish systems of quarantine?
10. How may the Governor assist in maintaining a necessary quarantine?
11. Give some of the duties of the State health officer.
12. Describe briefly the duties of the State Board of Health.
13. How is information concerning public health disseminated?
14. Do disease prevention measures extend to treatment of animals also?
15. Discuss mosquitoes and flies in connection with health conservation measures.
16. What can you say of the National Government with reference to public health work.



# The Constitution of the State of Florida

Adopted by the Convention of 1885, as Amended

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## PREAMBLE

We, the people of the State of Florida, grateful to Almighty God for our constitutional liberty, in order to secure its blessings and to form a more perfect government, insuring domestic tranquility, maintaining public order, and guaranteeing equal civil and political rights to all, do ordain and establish this Constitution

## DECLARATION OF RIGHTS

Section 1. All men are equal before the law, and have certain inalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing happiness and obtaining safety.

Section 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the citizens, and they have the right to alter or amend the same whenever the public good may require it; but the paramount allegiance of every citizen is due to the Federal Government, and the people of this State have no power to dissolve its connection therewith.

Section 3. The right of trial by jury shall be secured to all, and remain inviolate forever.

Section 4. All courts in this State shall be open, so that every person for any injury done him in his lands, goods, person or reputation shall have remedy, by due course of law, and right and justice shall be administered without sale, denial or delay.

Section 5. The free exercise and enjoyment of religious profession and worship shall forever be allowed in this State, and no person shall be rendered incompetent as a witness on account of his religious opinions;

but the liberty of conscience hereby secured shall not be so construed as to justify licentiousness or practices subversive of, or inconsistent with the peace or moral safety of the State or society.

Section 6. No preference shall be given by law to any church, sect or mode of worship, and no money shall ever be taken from the public treasury directly or indirectly in aid of any church, sect or religious denomination, or in aid of any sectarian institution.

Section 7. The writ of habeas corpus shall be grantable speedily and of right, freely and without cost, and shall never be suspended unless, in case of rebellion or invasion, the public safety may require its suspension.

Section 8. Excessive bail shall not be required, nor excessive fines be imposed, nor cruel or unusual punishment or indefinite imprisonment be allowed, nor shall witnesses be unreasonably detained.

Section 9. All persons shall be bailable by sufficient sureties, except for capital offenses, where the proof is evident or the presumption great.

Section 10. No person shall be tried for a capital crime or other felony, unless on presentment or indictment by a grand jury, except as is otherwise provided in this Constitution, and except in cases of impeachment, and in cases in the militia when in active service in time of war, or which the State, with the consent of Congress, may keep, in time of peace.

Section 11. In all criminal prosecutions the accused shall have the right to a speedy and public trial, by an impartial jury, in the county where the crime was committed, and shall be heard by himself, or counsel, or both, to demand the nature and cause of the accusation against him, to meet the witnesses against him face to face, and have compulsory process for the attendance of witnesses in his favor, and shall be furnished with a copy of the indictment against him.

Section 12. No person shall be subject to be twice put in jeopardy for the same offense, nor compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law; nor shall private property be taken without just compensation.

Section 13. Every person may fully speak and write his sentiments on all subjects, being responsible for the abuse of that right, and no laws shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions and civil actions for libel the truth may be given in evidence to the jury, and if it shall appear that the matter

charged as libelous is true, and was published for good motives, the party shall be acquitted or exonerated.

Section 14. No person shall be compelled to pay costs except after conviction, on a final trial.

Section 15. The people shall have the right to assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

Section 16. No person shall be imprisoned for debt except in cases of fraud.

Section 17. No bill of attainder, ex post facto law nor any law impairing the obligation of contracts, shall ever be passed.

Section 18. Foreigners shall have the same rights as to the ownership, inheritance and disposition of property in this State as citizens of the State.

Section 19. Neither slavery nor involuntary servitude, except as a punishment for crime, whereof the party has been duly convicted, shall ever be allowed in this State.

Section 20. The right of the people to bear arms in defense of themselves and the lawful authority of the State, shall not be infringed, but the Legislature may prescribe the manner in which they may be borne.

Section 21. The military shall in all cases and at all times be in strict subordination to the civil power.

Section 22. The right of the people to be secure in their persons, houses, papers and effects against unreasonable seizures and searches, shall not be violated, and no warrants issued but upon probable cause, supported by oath or affirmation, particularly describing the place or places to be searched, and the person or persons, and thing or things to be seized.

Section 23. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort; and no person shall be convicted of treason except on the testimony of two witnesses to the same overt act, or confession in open court, and no conviction for treason shall work corruption of blood or forfeiture of estate.

Section 24. This enunciation of rights shall not be construed to impair or deny others retained by the people.

## ARTICLE I

## BOUNDARIES

The boundaries of the State of Florida shall be as follows: Commencing at the mouth of the river Perdido; from thence up the middle of said river to where it intersects the south boundary line of the state of Alabama, and the thirty-first degree of north latitude; thence due east to the Chattahoochee river; thence down the middle of said river to its confluence with the Flint river; thence straight to the head of the St. Mary's river; thence down the middle of said river to the Atlantic ocean; thence southeastwardly along the coast to the edge of the Gulf stream; thence southwestwardly along the edge of the Gulf stream and Florida reefs to and including the Tortugas Islands; thence northeastwardly to a point three leagues from the mainland; thence northwestwardly three leagues from the land, to a point west of the mouth of the Perdido river; thence to the place of beginning.

## ARTICLE II

## DISTRIBUTION OF POWERS

The powers of the government of the State of Florida shall be divided into three departments—legislative, executive and judicial; and no person properly belonging to one of the departments shall exercise any power appertaining to either of the others, except in cases expressly provided for by this Constitution.

## ARTICLE III

## LEGISLATIVE DEPARTMENT

Section 1. The legislative authority of this State shall be vested in a Senate and a House of Representatives, which shall be designated, "The Legislature of the State of Florida," and the sessions thereof shall be held at the seat of government of the State.

Section 2. The regular sessions of the Legislature shall be held biennially, commencing on the first Tuesday after the first Monday in April, A. D. 1887, and on the corresponding day of every second year



thereafter; but the Governor may convene the same in extra session by his proclamation. Regular sessions of the Legislature may extend to sixty days, but no special session convened by the Governor shall exceed twenty days.

Section 3. The members of the House of Representatives of the State of Florida shall be chosen biennially, beginning with the general election on the first Tuesday after the first Monday in November, 1898, and thereafter on the corresponding day of every second year.

Section 4. Senators and members of the House of Representatives shall be duly qualified electors in the respective counties and districts for which they were chosen. The pay of members of the Senate and House of Representatives shall not exceed six dollars a day for each day of session and mileage to and from their homes to the seat of government, not to exceed ten cents a mile each way, by the nearest and most practicable route.

Section 5. No Senator or member of the House of Representatives shall, during the time for which he was elected, be appointed or elected to any civil office under the Constitution of this State, that has been created, or the emoluments whereof shall have been increased, during such time.

Section 6. Each House shall judge of the qualifications, election and returns of its own members, choose its own officers, and determine the rules of its proceedings. The Senate shall, at the convening of each regular session thereof, choose from among its own members a permanent president of the Senate, who shall be its presiding officer. The House of Representatives shall, at the convening of each regular session thereof choose from among its own members a permanent Speaker of the House of Representatives, who shall be its presiding officer. Each House may punish its own members for disorderly conduct; and each House, with the concurrence of two-thirds of all its members present, may expel a member.

Section 7. No person holding a lucrative office or appointment under the United States or this State shall be eligible to a seat in the Legislature of this State.

Section 8. The seat of a member of either House shall be vacated on his permanent change of residence from the district or county from which he was elected.

Section 9. Either House during the session may punish by fine or imprisonment any person not a member who shall have been guilty of

disorderly or contemptuous conduct in its presence, or of a refusal to obey its lawful summons, but such imprisonment shall not extend beyond the final adjournment of the session.

Section 10. Either House shall have power to compel the attendance of witnesses upon any investigations, held by itself, or by any of its committees; the manner of the exercise of such power shall be provided by law.

Section 11. A majority of each House shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the presence of absent members in such manner and under such penalties as it may prescribe.

Section 12. Each House shall keep a journal of its own proceedings, which shall be published, and the yeas and nays of the members of either House on any question shall, at the desire of any five members present, be entered on the journal.

Section 13. The doors of each House shall be kept open during its session, except the Senate while sitting in executive session; and neither shall, without the consent of the other, adjourn for more than three days, or to any other town than that in which they may be holding their session.

Section 14. Any bill may originate in either House of the Legislature, and after being passed in one House may be amended in the other.

Section 15. The enacting clause of every law shall be as follows: "Be it enacted by the Legislature of the State of Florida."

Section 16. Each law enacted in the Legislature shall embrace but one subject and matter properly connected therewith, which subject shall be briefly expressed in the title; and no law shall be amended or revised by reference to its title only; but in such case the act, as revised, or section, as amended, shall be re-enacted and published at length.

Section 17. Every bill shall be read by its title, on its first reading in either House, unless one-third of the members present desire it read by sections. Every bill shall be read on three several days, unless two-thirds of the members present when such bill may be pending shall deem it expedient to dispense with this rule. Every bill shall be read by its sections on its second reading and on its final passage, unless on its second reading two-thirds of the members present in the House where such bill may be pending shall deem it expedient to dispense with this rule. The vote on the final passage of every bill or joint resolution shall be taken by yeas and nays, to be entered on the journal of each

House; Provided, That any general revision of the entire laws embodied in any bill shall not be required to be read by sections upon its final passage, and its reading may be wholly dispensed with by a two-thirds vote. A majority of the members present in each House shall be necessary to pass every bill or joint resolution. All bills or joint resolutions so passed shall be signed by the presiding officer of the respective Houses and by the secretary of the Senate and the clerk of the House of Representatives.

Section 18. No law shall take effect until sixty days from the final adjournment of the session of the Legislature at which it may have been enacted, unless otherwise specially provided in such law.

Section 19. Accurate statements of the receipts and expenditures of the public money shall be attached to and published with the laws passed at every regular session of the Legislature.

Section 20. The Legislature shall not pass special or local laws in any of the following enumerated cases: that is to say, regulating the jurisdiction and duties of any class of officers, except municipal officers, or for the punishment of crime or misdemeanor; regulating the practice of courts of justice, except municipal courts; providing for changing venue of civil and criminal cases; granting divorces; changing the names of persons; vacating roads; summoning and empaneling grand and petit juries, and providing for their compensation; for assessment and collection of taxes for State and county purposes; for opening and conducting elections for State and county officers, and for designating the places of voting; for the sale of real estate belonging to minors, estates of decedents, and of persons laboring under legal disabilities; regulating the fees of officers of the State and county; giving effect to informal or invalid deeds or wills; legitimizing children; providing for the adoption of children; relieving minors from legal disabilities; and for the establishment of ferries.

Section 21. In all cases enumerated in the preceding section all laws shall be general and of uniform operation throughout the State, but in all cases not enumerated or excepted in that section, the Legislature may pass special or local laws; Provided, That no local or special bill shall be passed, unless notice of the intention to apply therefor shall have been published in the locality where the matter or thing to be affected may be situated, which notice shall state the substance of the contemplated law, and shall be published at least sixty days prior to the introduction into the Legislature of such bill, and in the manner to be pro-



vided by law. The evidence that such notice has been published shall be established in the Legislature before such bill shall be passed.

Section 22. Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.

Section 23. Lotteries are hereby prohibited in this State.

Section 24. The Legislature shall establish a uniform system of county and municipal government, which shall be applicable, except in cases where local or special laws are provided by the Legislature that may be inconsistent therewith.

Section 25. The Legislature shall provide by general law for incorporating such educational, agricultural, mechanical, mining, transportation, mercantile and other useful companies or associations as may be deemed necessary; but it shall not pass any special law on any such subject, and any such special law shall be of no effect; Provided, however, That nothing herein shall preclude special legislation as to a university or the public schools, or as to a ship canal across the State.

Section 26. Laws shall be passed regulating elections, and prohibiting under adequate penalties, all undue influence thereon from power, bribery, tumult or other improper practice.

Section 27. The Legislature shall provide for the election by the people or appointment by the Governor of all State and county officers not otherwise provided for by this Constitution, and fix by law their duties and compensation

Section 28. Every bill that may have passed the Legislature shall, before becoming a law, be presented to the Governor; if he approves it he shall sign it, but if not he shall return it with his objections to the House in which it originated, which house shall cause such objections to be entered upon its journal, and proceed to reconsider it; if, after such reconsideration, it shall pass both Houses by a two-thirds vote of members present, which vote shall be entered on the journal of each House, it shall become a law. If any bill shall not be returned within five days after it shall have been presented to the Governor (Sunday excepted) the same shall be a law, in like manner as if he had signed it. If the Legislature, by its final adjournment prevent such action, such bill shall be a law, unless the Governor, within ten days after the adjournment, shall file such bill, with his objections thereto, in the office of the Secretary of State, who shall lay the same before the Legislature at its next



session, and if the same shall receive two-thirds of the votes present it shall become a law.

Section 29. The House of Representatives shall have the sole power of impeachment; but a vote of two-thirds of all members present shall be required to impeach any officer; and all impeachments shall be tried by the Senate. When sitting for that purpose the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the Senators present. The Senate may adjourn to a fixed day for the trial of any impeachment, and may sit for the purpose of such trial whether the House of Representatives be in session or not, but the time fixed for such trial shall not be more than six months from the time articles of impeachment shall be preferred by the House of Representatives. The chief justice shall preside at all trials by impeachment except in the trial of the chief justice, when the Governor shall preside. The Governor, administrative officers of the executive department, justices of the Supreme Court, and judges of the Circuit Court shall be liable to impeachment for any misdemeanor in office, but judgment in such cases shall extend only to removal from office and disqualification to hold any office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial and punishment according to law.

Section 30. Laws making appropriations for the salaries of public officers and their current expenses of the State shall contain provisions on no other subject.

Section 31. The Legislature shall elect United States Senators in the manner prescribed by the Congress of the United States and by this Constitution.

(This section is superseded by Article 17 of the Constitution of the United States, which provides for the election of United States Senators by the people.)

Section 32. The repeal or amendment of any criminal statute shall not affect the prosecution or punishment of any crime committed before such repeal or amendment.

Section 33. No statute shall be passed lessening the time within which a civil action may be commenced on any cause of action existing at the time of its passage.

Section 34. Immediately upon the impeachment of any officer by the House of Representatives, he shall be disqualified from performing any of the duties of his office until acquitted by the Senate, and the Gov-

ernor in such case shall at once appoint an incumbent to fill such office pending the impeachment proceedings. In case of the impeachment of the Governor, the President of the Senate, or in case of the death, resignation or inability of the President of the Senate, the Speaker of the House of Representatives shall act as Governor, pending the impeachment proceedings against the Governor.

## ARTICLE IV

### EXECUTIVE DEPARTMENT

Section 1. The supreme executive power of the State shall be vested in a chief magistrate, who shall be styled the Governor of Florida.

Section 2. The Governor shall be elected by the qualified electors of the State at the time and place of voting for members of the Legislature, and shall hold his office for four years from the time of his installation, but shall not be eligible for re-election to said office the next succeeding term; Provided, That the first election for Governor under this Constitution shall be had at the time and places of voting for members of the Legislature and State officers, A. D. 1888, and the term of office of the Governor then elected shall begin on the first Tuesday after the first Monday in January after his election.

Section 3. No person shall be eligible to the office of Governor who is not a qualified elector, and who has not been ten years a citizen of the United States, and five years a citizen and resident of the State of Florida, next preceding the time of his election; Provided, That these limitations of time shall not apply to the President of the Senate or Speaker of the House of Representatives when, under this Constitution, the powers and duties of the Governor shall devolve upon them.

Section 4. The Governor shall be the commander-in-chief of the military forces of the State, except when they shall be called into the service of the United States.

Section 5. The Governor shall transact all executive business with the officers of the government, civil and military, and may require information in writing from the administrative officers of the executive department upon any subject relating to the duties of their respective offices.

Section 6. The Governor shall take care that the laws be faithfully executed.

Section 7. When any office, from any cause, becomes vacant, and no mode is provided by this Constitution or by the laws of the State for filling such vacancy, the Governor shall have the power to fill such vacancy by granting a commission for the unexpired term.

Section 8. The Governor may, on extraordinary occasions, convene the Legislature by proclamation, and shall in his proclamation state the purpose for which it is to be convened, and the Legislature when organized shall transact no legislative business other than that for which it is especially convened, or such other legislative business as the Governor may call to its attention while in session, except by a two-thirds vote of each House.

Section 9. The Governor shall communicate by message to the Legislature at each regular session information concerning the condition of the State, and recommend such measures as he may deem expedient.

Section 10. In case of a disagreement between the two Houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper, provided it be not beyond the time fixed for the meeting of the next Legislature.

Section 11. The Governor shall have power to suspend the collection of fines and forfeitures, and grant reprieves for a period not exceeding sixty days, for all offenses, except in cases of impeachment. In cases of conviction for treason he shall have power to suspend the execution of sentence until the case shall be reported to the Legislature at its next session, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve; and if the Legislature shall fail or refuse to make disposition of such case, the sentence shall be enforced at such time and place as the Governor may direct. He shall communicate to the Legislature, at the beginning of every session, every case of fine or forfeiture remitted, or reprieve, pardon or commutation granted, stating the name of the convict, the crime for which he was convicted, the sentence, its date, and the date of its remission, commutation, pardon or reprieve.

Section 12. The Governor, Secretary of State, Comptroller, Attorney General and Commissioner of Agriculture, or a major part of them, of whom the Governor shall be one, may, upon such conditions and with such limitations and restrictions as they may deem proper, remit fines and forfeitures, commute punishment, and grant pardon after conviction, in all cases except treason and impeachment, subject to such regu-



lations as may be prescribed by law relative to the manner of applying for pardons.

Section 13. The Governor may, at any time, require the opinion of the justices of the Supreme Court as to the interpretation of any portion of this Constitution upon any question affecting his executive powers and duties, and the justices shall render such opinion in writing.

Section 14. All grants and commissions shall be in the name and under the authority of the State of Florida, sealed with the great seal of the State, signed by the Governor, and countersigned by the Secretary of State.

Section 15. All officers that shall have been appointed or elected, and that are not liable to impeachment, may be suspended from office by the Governor for malfeasance, or misfeasance, or neglect of duty in office, for the commission of any felony, or for drunkenness or incompetency, and the cause of suspension shall be communicated to the officer suspended and to the Senate at its next session. And the Governor, by and with the consent of the Senate, may remove any officer, not liable to impeachment, for any cause above named. Every suspension shall continue until the adjournment of the next session of the Senate, unless the officer suspended shall, upon the recommendation of the Governor, be removed; but the Governor may reinstate the officer so suspended upon satisfactory evidence that the charge or charges against him are untrue. If the Senate shall refuse to remove, or fail to take action before its adjournment, the officer suspended shall resume the duties of the office. The Governor shall have power to fill by appointment any office, the incumbent of which has been suspended. No officer suspended who shall under this section resume the duties of his office, shall suffer any loss of salary or other compensation in consequence of such suspension. The suspension or removal herein authorized shall not relieve the officer from indictment for any misdemeanor in office.

Section 16. The Governor shall appoint all commissioned officers of the State Militia, including an adjutant general for the State, with rank of brigadier general, who shall be chief of staff. The duties and compensation of all officers so appointed shall be as fixed by law. The terms of office of all commissioned officers of the organized militia shall be continuous during the pleasure of the Governor; subject to such laws as may be enacted by the Legislature providing for their retirement for age or other causes.



Section 17. The Governor and the administrative officers of the executive department shall constitute a Board of Commissioners of State Institutions, which board shall have supervision of all matters connected with such institutions in such manner as shall be prescribed by law.

Section 18. The Governor shall have power to disapprove of any item or items of any bills making appropriations of money embracing distinct items, and the part or parts of the bill approved shall be the law, and the item or items of appropriations disapproved shall be void, unless repassed according to the rules and limitations prescribed for the passage of other bills over the executive veto.

Section 19. In case of the impeachment of the Governor, his removal from office, death, resignation or inability to discharge his official duties, the powers and duties of Governor shall devolve upon the President of the Senate for the residue of the term, or until the disability shall cease; and in case of the impeachment, removal from office, death, resignation or inability of the President of the Senate, the powers and duties of the office shall devolve upon the Speaker of the House of Representatives. But should there be a general election for members of the Legislature during such vacancy, an election for Governor to fill the same shall be had at the same time.

Section 20. The Governor shall be assisted by administrative officers as follows: A Secretary of State, Attorney General, Comptroller, Treasurer, Superintendent of Public Instruction, and Commissioner of Agriculture, who shall be elected at the same time as the Governor, and shall hold their offices for the same term; Provided, That the first election of such officers shall be had at the time of voting for Governor A. D. 1888.

Section 21. The Secretary of State shall keep the records of official acts of the Legislature and executive departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature; and shall be the custodian of the great seal of the State. He shall also have charge of the capitol building and grounds, and perform such other duties as shall be prescribed by law.

Section 22. The Attorney General shall be the legal adviser of the Governor, and of each of the officers of the executive department, and shall perform such other legal duties as may be prescribed by law. He shall be reporter for the Supreme Court.

Section 23. The Comptroller shall examine, audit, adjust and settle the accounts of all officers of the State and perform such other duties as may be prescribed by law.

Section 24. The Treasurer shall receive and keep all funds, bonds, and other securities, in such manner as may be prescribed by law, and shall disburse no funds, nor issue bonds, or other securities, except upon the order of the Comptroller countersigned by the Governor, in such manner as shall be prescribed by law.

Section 25. The Superintendent of Public Instruction shall have supervision of all matters pertaining to public instruction; the supervision of State buildings devoted to educational purposes, and perform such other duties as the Legislature may provide by law.

Section 26. The commissioner of Agriculture shall perform such duties in relation to agriculture as may be prescribed by law; shall have supervision of all matters pertaining to the public lands under regulations prescribed by law, and shall keep the bureau of immigration. He shall also have supervision of the State prison, and shall perform such other duties as may be prescribed by law.

Section 27. Each officer of this department shall make a full report of his official acts, of the receipts and expenditures of his office, and of the requirements of the same, to the Governor at the beginning of each regular session of the Legislature, or whenever the Governor shall require it. Such reports shall be laid before the Legislature by the Governor at the beginning of each regular session thereof. Either House of the Legislature may at any time call upon any officer of this department for information required by it.

Section 28. The administrative officers of the executive department shall be installed on the same day as the Governor.

Section 29. The salary of the Governor of the State shall be thirty-five hundred dollars a year, of the Comptroller two thousand dollars, of the State Treasurer two thousand dollars, of the Secretary of State fifteen hundred dollars, of the Attorney General fifteen hundred dollars, of the Commissioner of Agriculture fifteen hundred dollars, of the Superintendent of Public Instruction fifteen hundred dollars, a year; Provided, That no administrative officer of the executive department shall receive any additional compensation beyond his salary for any service or services rendered the State in connection with the internal improvement fund or other interests belonging to the State of Florida; Provided,

further, That the Legislature may after eight years from the adoption of this Constitution increase or decrease any or all of said salaries.

Note.—The salary of the Governor is at present—1921—fixed at six thousand dollars per annum and the other officers mentioned in the above section receive four thousand five hundred dollars per annum.

## ARTICLE V

### JUDICIARY DEPARTMENT

Section 1. The judicial power of the State shall be vested in a Supreme Court, Circuit Courts, Court of Record of Escambia County, Criminal Courts, County Courts, County Judges and Justices of the Peace and such other Courts or Commissions as the Legislature may from time to time ordain and establish. The Legislature may prescribe the compensation of the justices and judges of the several courts, but no court heretofore established under the Constitution and laws of Florida shall be hereby abolished.

Section 2. The Supreme Court shall consist of three justices, except as hereinafter provided, who shall be elected by the qualified electors of the State at the time and places of voting for members of the Legislature, and shall hold their office for the term of six years, except those first elected, one of whom, to be designated by lot in such manner as they may determine, shall hold his office for two years; another, to be designated in like manner, for four years, and the third for six years, so that one shall be elected every two years after the first election. The chief justice shall be designated by lot by said justices, and shall be such during his term of office. The first election for said justices shall take place at the first election for members of the Legislature after the ratification of this Constitution, and their term of office shall begin on the first Tuesday after the first Monday after their election.

Upon ratification of this Amendment to the Constitution, the Governor, by and with the consent of the Senate, shall appoint three more justices of the Supreme Court, each of whom shall have the same powers and shall receive the same compensation as each of the other justices of the Supreme Court, and each of the justices so appointed shall hold office until the first Tuesday after the first Monday of June in the year 1905, and may further hold office until his successor shall be elected and qualified, if it shall be so provided by law. For the year 1905 and for



the subsequent years the Legislature may provide by law for the election of such number of justices of the Supreme Court as it may determine, and prescribe their terms of office, not to exceed six years; Provided, That the number of justices of the Supreme Court holding office at the same time shall not be less than three, and shall not be greater than six, and provided that no justice of the Supreme Court can by such an act of the Legislature be deprived of his office during the term for which he was elected.

Section 3. No person shall ever be appointed or elected as a justice of the Supreme Court, or judge of a Circuit Court, or Criminal Court, that is not twenty-five years of age and an attorney at law.

Section 4. The majority of the justices of the Supreme Court shall constitute a quorum for the transaction of all business. But when there shall be six justices of the Supreme Court, the court may hear and determine cases and exercise any of its powers when sitting either in a body or in two divisions, under such regulations as may be prescribed by law or by the rules of said court not inconsistent therewith. The concurrence of a majority of the members of the court sitting in any cause wherein the court shall sit as one body shall be necessary to a decision; and when any member of a division of the court shall dissent from the majority of such division on any question, such question shall be submitted to the court sitting in a body. The number of terms of the Supreme Court and the time of holding the same shall be regulated by law. All terms shall be held at the capital of the State.

Section 5. The Supreme Court shall have appellate jurisdiction in all cases at law and in equity originating in Circuit Courts, and of appeals from the Circuit Courts in cases arising before judges of the county courts in matters pertaining to their probate jurisdiction and in the management of the estates of infants, and in cases of conviction of felony in the Criminal Courts, and in all criminal cases originating in the Circuit Courts. The court shall have the power to issue writs of mandamus, certiorari, prohibition, quo warranto, habeas corpus, and also all writs necessary or proper to the complete exercise of its jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court, or any justice thereof, or before any circuit judge.

Section 6. The Legislature shall have power to prescribe regulations



for calling into the Supreme Court a judge of the Circuit Court, to hear and determine any matters pending before the court in the place of any justice thereof, that shall be disqualified or disabled in such case from interest or other cause.

Section 7. The Supreme Court shall appoint a clerk who shall have his office at the capital and shall be librarian of the Supreme Court library.

Section 8. There shall be eight circuit judges, who shall be appointed by the Governor and confirmed by the Senate, and who shall hold their office for six years.

The State shall be divided by the Legislature, at its first regular session after the adoption of this section, into eight judicial circuits, and one judge shall be assigned to each circuit. Such judge shall hold at least two terms of his court in each county within his circuit every year, and at such times and places as shall be prescribed by law, and may hold special terms.

The Governor may, in his discretion, order a temporary exchange of circuits by the respective judges, or order any judge to hold one or more terms or part or parts of any term in any other circuit than that to which he is assigned. The judge shall reside in the circuit of which he is judge.

This section shall not be operative until the Legislature shall have divided this State into eight circuits, as hereinbefore provided for, and the seven circuit judges holding office at the time of such division shall continue to exercise jurisdiction over their several existing circuits as constituted at the time of such division, until the judge of the additional circuit shall have qualified. The circuit judges holding office at the time of such division shall severally continue in office until the expiration of their then existing term of office as judges of the circuits respectively in which, under such division, the county of his residence may be included; and a judge for the additional circuit shall be appointed for a term equal to the unexpired term of the other circuit judges upon such division being made. The salary of each circuit judge shall be two thousand, seven hundred and fifty dollars.

Note.—By authority granted in Section 1, Article V, and Section 35, Article V, the Legislature has increased the number of judicial circuits and the salary of the circuit judges.

Section 9. The salary of the justices of the Supreme Court shall be three thousand dollars a year. The salary of each circuit judge shall be two thousand five hundred dollars a year.

Note.—Changed by the Legislature under the authority granted by Section 1, Article V.

Section 10. Until otherwise defined by the Legislature the several judicial circuits of the State shall be as follows:

The first judicial circuit shall be composed of the counties of Escambia, Santa Rosa, Walton, Holmes, Washington and Jackson.

The second judicial circuit shall be composed of the counties of Gadsden, Liberty, Calhoun, Franklin, Leon, Wakulla and Jefferson.

The third judicial circuit shall be composed of the counties of Madison, Taylor, Lafayette, Hamilton, Suwannee and Columbia.

The fourth judicial circuit shall be composed of the counties of Nassau, Duval, Baker, Bradford, Clay and St. Johns.

The fifth judicial circuit shall be composed of the counties of Putnam, Alachua, Levy, Marion and Sumter.

The sixth judicial circuit shall be composed of the counties of Hernando, Hillsboro, Manatee, Polk and Monroe.

The seventh judicial circuit shall be composed of the counties of Volusia, Brevard, Orange and Dade.

Note.—Changed by authority Section 35, Article V, see Chapter 3 Title 3, Second Division, Revised General Statutes.

Section 11. The Circuit Courts shall have exclusive original jurisdiction in all cases in equity, also in all cases at law, not cognizable by inferior courts, and in all cases involving the legality of any tax, assessment, or toll; of the action of ejectment and of all actions involving the titles or boundaries of real estate, and all criminal cases not cognizable by inferior courts; and original jurisdiction of actions of forcible entry and unlawful detainer, and of such other matters as the Legislature may provide. They shall have final appellate jurisdiction in all civil and criminal cases arising in the county court, or before the county judge, of all misdemeanors tried in Criminal Courts, of judgments or sentences of any mayor's court, and of all cases arising before justices of the peace in counties in which there is no county court; and supervision and appellate jurisdiction of matters arising before county judges pertaining to their probate jurisdiction, or to the estates and interests of minors,

and of such other matters as the Legislature may provide. The Circuit Courts and judges shall have power to issue writs of mandamus, injunction, quo warranto, certiorari, prohibition, habeas corpus and all writs proper and necessary to the complete exercise of their jurisdiction.

Section 12. The Circuit Courts and circuit judges may have such extra territorial jurisdiction in chancery cases as may be prescribed by law.

Section 13. It shall be the duty of the judges of the Circuit Courts to report to the attorney-general at least thirty days before each session of the Legislature such defects in the laws as may have been brought to their attention, and to suggest such amendments or additional legislation as may be deemed necessary. The attorney-general shall report to the Legislature at each session such legislation as he may deem advisable.

Section 14. A circuit judge may appoint in each county in his circuit one or more attorneys at law to be court commissioners, who shall have power in the absence from the county of the circuit judge, to allow writs of injunction, and to issue writs of habeas corpus, returnable before himself or the circuit judge. Their orders in such matters may be reviewed by the circuit judge, and confirmed, qualified or vacated. They may be removed by the circuit judge. The Legislature may confer upon them further powers, not judicial, and shall fix their compensation.

Section 15. The Governor, by and with the consent of the Senate, shall appoint a state attorney in each judicial circuit, whose duties shall be prescribed by law, and who shall hold office for four years. There shall be elected in each county a sheriff, and a clerk of the Circuit Court, who shall also be clerk of the county court, except in counties where there are criminal courts, and of the Board of County Commissioners, and recorder and ex officio auditor of the county, each of whom shall hold office for four years. Their duties shall be prescribed by law.

Section 16. There shall be in each county a county judge who shall be elected by the qualified electors of said county at the time and places of voting for other county officers and shall hold his office for four years. His compensation shall be provided for by law.

Section 17. The county judge shall have original jurisdiction in all cases at law in which the demand or value of property involved shall not exceed one hundred dollars; of proceedings relating to the forcible entry or unlawful detention of lands and tenements; and of such criminal cases as the Legislature may prescribe. The county judge shall have



jurisdiction of the settlement of the estates of decedents and minors, to order the sale of real estate of decedents and minors, to take probate of wills, to grant letters testamentary and of administration and guardianship, and to discharge the duties usually pertaining to courts of probate. He shall have the power of a committing magistrate and shall issue all licenses required by law to be issued in the county.

Section 18. The Legislature may organize in such counties as it may think proper, county courts which shall have jurisdiction of all cases at law in which the demand or value of the property involved shall not exceed five hundred dollars; of proceedings relating to the forcible entry or unlawful detention of lands and tenements, and of misdemeanors, and final appellate jurisdiction in civil cases arising in the courts of justices of the peace. The trial of such appeals may be de novo at the option of appellant. The county judge shall be the judge of said court. There shall be elected by the qualified electors of said county, at the time when the said judge is elected, a prosecuting attorney for said county, who shall hold office for four years. His duties and compensation shall be prescribed by law. Such courts may be abolished at the pleasure of the Legislature.

Section 19. When any civil case at law in which the judge is disqualified shall be called for trial in a circuit or county court, the parties may agree upon an attorney at law, who shall be judge ad litem, and shall preside over the trial of and make orders in said cause as if he were judge of the court. The parties may, however, transfer the cause to another Circuit Court or county court, as the case may be, or may have the case submitted to a referee.

Section 20. Any civil cause may be tried before a practicing attorney as referee upon the application of the parties and an order from the court in whose jurisdiction the case may be, authorizing such trial and appointing such referee. The referee shall keep a complete record of the case, including the evidence taken, and such record shall be filed with the papers in the case in the office of the clerk; and the cause shall be subject to an appeal in the manner prescribed by law.

Section 21. The County Commissioners of each county shall divide it into as many justice districts, not less than two, as they may deem necessary. There shall be elected one justice of the peace for each of the said districts. He shall hold his office for four years.

Section 22. The justices of the peace shall have jurisdiction in cases at law in which the demand or value of the property involved does not



exceed \$100.00, and in which the cause of action accrued or the defendant resides in his district; and in such criminal cases, except felonies, as may be prescribed by law, and he shall have power to issue process for the arrest of all persons charged with felonies and misdemeanors not within his jurisdiction to try, and make the same returnable before himself or the county judge for examination, discharge, commitment or bail of the accused. Justices of the peace shall have power to hold inquests of the dead. Appeal from justices of the peace courts in criminal cases may be tried de novo under such regulations as the Legislature may prescribe.

Section 23. A constable shall be elected by the registered voters in each justice's district, who shall perform such duties, and under such regulations as may be prescribed by law.

Section 24. There shall be established in the county of Escambia, and upon application of a majority of the registered voters in such other counties as the Legislature may deem expedient, a Criminal Court of Record, and there shall be one judge for each of the said courts, who shall be appointed by the Governor and confirmed by the Senate, who shall hold his office for four years, and whose salary shall be one thousand dollars a year, the counties paying the salaries.

Section 25. The said courts shall have jurisdiction of all criminal cases not capital which shall arise in said counties respectively.

Section 26. There shall be six terms of said courts in each year.

Section 27. There shall be for each of said courts a prosecuting attorney, who shall be appointed by the Governor and confirmed by the Senate, and who shall hold his office for four years. His compensation shall be fixed by law.

Section 28. All offenses triable in said court shall be prosecuted upon information under oath, to be filed by the prosecuting attorney, but the grand jury of the Circuit Court for the county in which said Criminal Court is held may indict for offenses triable in the Criminal Court. Upon the finding of such indictment the circuit judge shall commit or bail the accused for trial in the Criminal Court, which trial shall be upon information.

Section 29. The county courts in counties where such criminal courts are established shall have no criminal jurisdiction and no prosecuting attorney.

Section 30. The clerk of said court shall be elected by the electors of the county in which the court is held and shall hold office for four

years, and his compensation shall be fixed by law. He shall also be clerk of the county court. The sheriff of the county shall be the executive officer of said court, and his duties and fees shall be fixed by law.

Section 31. The State attorney residing in the county where such court is held shall be eligible for appointment as county solicitor for said county.

Section 32. Such court may be abolished by the Legislature.

Section 33. When the office of any judge shall become vacant from any cause, the successor to fill such vacancy shall be appointed or elected only for the unexpired term of the judge whose death, resignation, retirement, or other cause created such vacancy.

Section 34. The Legislature may establish in incorporated towns and cities, courts for the punishment of offenses against municipal ordinances.

Section 35. No courts other than herein specified shall be established in this State, except that the Legislature may provide for the creation and establishment of such additional judicial circuits as may from time to time become necessary, and for the appointment by the Governor and confirmation by the Senate of additional circuit judges therefor, whose terms of office and general jurisdiction shall be the same as is herein provided for the circuit judges herein already provided for, and may clothe any railroad commission with judicial powers in all matters connected with the functions of their office.

Section 36. All judicial officers in this State shall be conservators of the peace.

Section 37. The style of all process shall be "The State of Florida," and all prosecutions shall be conducted in the name and by the authority of the State.

Section 38. The number of jurors for the trial of causes in any court may be fixed by law but shall not be less than six in any case.

Section 39. From and after the adoption of these amendments the Criminal Court of Record in and for Escambia county shall be known as the Court of Record in and for said county, and, in addition to their present jurisdiction, the said court, and the judge thereof, shall have, in Escambia county, concurrent with the Circuit Court of said county and the judge thereof, the same original jurisdiction of all other cases and matters and the same power and authority to issue all writs as the Circuit Court of said county and the judge thereof, excepting capital cases, and the power to summon and empanel a grand jury. The same

rules of procedure and practice and rights of trial by judges ad litem and referees which obtain in said Circuit Court shall obtain in said Court of Record. The Governor may, in his discretion, order any one of the circuit judges of the State to hold one or more terms or parts of terms of said Court of Record.

Section 40. The Supreme Court of the State shall have appellate jurisdiction in all causes of which jurisdiction is granted to said Court of Record. Appeals and writs of error shall be prosecuted from the said Court of Record to the Supreme Court in accordance with the laws and rules governing such proceedings from the Circuit Court to the Supreme Court.

Section 41. All the provisions of the Constitution and all laws enacted in consonance therewith pertaining to the said Criminal Court of Record and the officers thereof including the manner of the appointment or election and the terms of office and compensation of said officers, shall apply with like effect to the said Court of Record and the officers thereof, except as provided by these amendments. The present officers of said Criminal Court of Record shall be the officers of said Court of Record and discharge the duties and receive the emoluments of their respective offices until the expiration of their present terms of office. The salary of the judge of said Court of Record shall be two thousand five hundred dollars a year, payable quarterly by the county of Escambia, and may be increased by the Legislature. From and after the expiration of the term of office of the present judge, the judge of said Court of Record shall hold his office for four years.

Section 42. There shall be another judge of the Circuit Court of Duval county in addition to the circuit judge of the circuit in which said county is situated. Such additional circuit judge shall be appointed by the Governor and confirmed by the Senate, and shall hold office for six (6) years, and shall receive the same salary and allowances for expenses as other circuit judges, but the same shall be paid by the county of Duval out of the general revenue of said county. He shall have all the powers and perform all the duties that are or may be provided or prescribed by the Constitution or by statute for circuit judges, and all statutes concerning circuit judges shall apply to him. The distribution of the business of the Circuit Court of Duval county between the two circuit judges and the allotment or assignment of matters and cases to be heard, decided, ordered, tried, decreed or adjudged shall be controlled



or made when necessary by the judge of said court who shall have the older commission in force at the time. Such additional circuit judge shall reside in Duval county.

## ARTICLE VI

### SUFFRAGE AND ELIGIBILITY

Section 1. Every male person of the age of twenty-one years and upwards that shall, at the time of registration, be a citizen of the United States, and that shall have resided and had his habitation, domicile, home and place of permanent abode in Florida for one year and in the county for six months, shall in such county be deemed a qualified elector at all elections under this Constitution. Naturalized citizens of the United States at the time of and before registration shall produce to the registration officers his certificate of naturalization or a duly certified copy thereof.

Section 2. The Legislature, at its first session after the ratification of this Constitution, shall provide by law for the registration of all the legally qualified voters in each county, and for the returns of elections; and shall also provide that after the completion, from time to time, of such registration, no person not duly registered according to law shall be allowed to vote.

Section 3. Every elector shall at the time of his registration take and subscribe to the following oath: "I do solemnly swear (or affirm) that I will protect and defend the Constitution of the United States and of the State of Florida, that I am twenty-one years of age, and have been a resident of the State of Florida for twelve months and of this county for six months, and I am qualified to vote under the Constitution and laws of the State of Florida."

Section 4. No person under guardianship, non compos mentis or insane shall be qualified to vote at any election, nor shall any person convicted of felony by a Court of Record be qualified to vote at any election unless restored to civil rights.

Section 5. The Legislature shall have power to, and shall, enact the necessary laws to exclude from every office of honor, power, trust or profit, civil or military, within the State, and from the right of suffrage, all persons convicted of bribery, perjury, larceny, or of infamous crime, or who shall make, or become directly or indirectly interested in,



any bet or wager, the result of which shall depend upon any election; or that shall hereafter fight a duel or send or accept a challenge to fight, or that shall be a second to either party, or that shall be the bearer of such challenge or acceptance; but the legal disability shall not accrue until after trial and conviction by due form of law.

Section 6. In all elections by the Legislature the vote shall be viva voce, and in all elections by the people the vote shall be by ballot.

Section 7. (Repealed at general election 1894.)

Section 8. The Legislature shall have power to make the payment of the capitation tax a prerequisite for voting, and all such taxes received shall go into the school fund.

Section 9. The Legislature shall enact such laws as will preserve the purity of the ballot given under this Constitution.

## ARTICLE VII

### CENSUS AND APPORTIONMENT

Section 1. The Senators representing the odd numbered districts, as said districts are now designated, whose terms have not expired, and those Senators representing even numbered districts, to be elected A. D. 1886, under the Constitution of 1868, shall be the first Senate under this Constitution; and the members of the assembly to be elected A. D. 1886 shall be the first House of Representatives under this Constitution, and the Senate and House of Representatives thus constituted shall be the first Legislature under this Constitution, and the terms of office of each of the said Senators and members of the House of Representatives shall expire at the election for Senators and members of the House of Representatives A. D. 1888, and in that year a new Senate and House of Representatives shall be elected.

Section 2. The Legislature shall consist of not more than thirty-two members of the Senate and of not more than sixty-eight members of the House of Representatives. The members of the House of Representatives shall be elected for terms of two years and the members of the Senate shall be elected for terms of four years, except as hereinafter provided. The elections for members of the House of Representatives and Senate shall be at the same time and places. The terms of office of the Senators elected in October, A. D. 1896, shall expire on the first Tues-

day after the first Monday in November, A. D. 1900, and the terms of those elected in November, A. D. 1898, shall expire on the first Tuesday after the first Monday in November, A. D. 1902, and thereafter all Senators shall be elected for four years.

Section 3. The Legislature that shall meet A. D. 1887, and those that shall meet every ten years thereafter, shall apportion the representation in the Senate, the whole number of Senators not to exceed thirty-two members; and at the same time shall also apportion the representation in the House of Representatives, the whole number of Representatives not to exceed sixty-eight members. The representation in the House of Representatives shall be apportioned among the several counties as nearly as possible according to population; Provided, Each county shall have one representative at large in the House of Representatives and no county shall have more than three Representatives.

Section 4. Where any senatorial district is composed of two or more counties, the counties of which such district consists shall not be entirely separated by any county belonging to another district. Any new county that may be created shall be entitled to one member in the House of Representatives in excess of the limit prescribed in Section 2 of this Article until the apportionment following next thereafter, and shall be assigned when created to one of the adjoining senatorial districts as shall be determined by the Legislature.

Section 5. The Legislature shall provide for an enumeration of all the inhabitants of the State by counties for the year 1895, and every ten years thereafter.

## ARTICLE VIII

### COUNTIES AND CITIES

Section 1. The State shall be divided into political divisions to be called counties.

Section 2. The several counties as they now exist are hereby recognized as the legal political divisions of the State.

Section 3. The Legislature shall have power to establish new counties, and to change county lines. Every newly established county shall be held liable for its proportion of the then existing liabilities of the county or counties from which it shall be formed, rated upon the basis of the assessed value of the property, both real and personal, subject to

taxation within the territory taken from any county or counties; and every county acquiring additional territory from another county shall be held liable for its proportion of the liabilities of such other county existing at the time of such acquisition, to be rated upon the basis of the assessed value of all property subject to taxation within such acquired territory.

Note.—The Legislature of 1921 submitted a proposed amendment to the above section. If ratified by the electors in 1922 the Senators will number 38 and the number of representatives will be increased, depending upon the population of the counties.

Section 4. The Legislature shall have no power to remove the county seat of any county, but shall provide by general law for such removal; Provided, That in the formation of new counties the county seat may be temporarily established by law.

Section 5. Immediately upon the ratification of this amendment the county commissioners of the several counties of this State shall divide their respective counties into five commissioners' districts, to be numbered respectively from one to five, inclusive, and each district shall be as nearly as possible equal in proportion to population, and thereafter there shall be in each of such districts a county commissioner, who shall be elected by the qualified electors of said county, at the time and place of voting for other county officers, and shall hold his office for two years. The powers, duties and compensation of such county commissioners shall be prescribed by law: Provided, That nothing herein shall affect the terms of commissioners holding office at the time of such division: Provided, further, That all vacancies occurring by limitation of terms, or from death, resignation or otherwise, before the election of 1902, shall be filled by appointment by the Governor, as now provided by law.

Section 6. The Legislature shall provide for the election by the qualified electors in each county of the following county officers: a Clerk of the Circuit Court, a Sheriff, Constables, a County Assessor of Taxes, a Tax Collector, a Superintendent of Public Instruction and a County Surveyor. The term of office of all county officers mentioned in this section shall be for four years, except that of County Assessor of Taxes and County Tax Collector, who shall be elected for two years until at the general election to be held in the year A. D. 1916, when and after which they shall be elected for a term of four years. Their powers, duties and compensation shall be prescribed by law. The Legisla-



ture shall provide by law for the care and custody of all county funds and shall provide the method of reporting and paying out all such funds.

Provided, County Treasurers elected in general election held in 1914 shall hold office for the term elected.

Section 7. The Legislature shall by law authorize the county commissioners of the several counties, where it is deemed necessary for assessment purposes, to divide their respective counties into taxation districts, and to appoint in and for each district an assistant assessor of taxes, whose powers, duties and compensation shall be prescribed by law. All county officers, except assistant assessors of taxes, shall before entering upon the duties of their respective offices, be commissioned by the Governor; but no such commission shall issue to any such officer until he shall have filed with the Secretary of State a good and sufficient bond in such sum and upon such conditions as the Legislature shall by law prescribe, approved by the county commissioners of the county in which said officer resides, and by the comptroller. No county officer shall become security upon the official bond of any other county officer. If any person elected or appointed to any county office shall fail to give bond and qualify within sixty days after his election, the said office shall become vacant.

Section 8. The Legislature shall have power to establish and to abolish municipalities, to provide for their government, to prescribe their jurisdiction and powers, and to alter or amend the same at any time. When any municipality shall be abolished, provision shall be made for the protection of its creditors.

## ARTICLE IX

### TAXATION AND FINANCE

Section 1. The Legislature shall provide for a uniform and equal rate of taxation, and shall prescribe such regulations as shall secure a just valuation of all property, both real and personal, excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious or charitable purposes.

Section 2. The Legislature shall provide for raising revenue sufficient to defray the expenses of the State for each fiscal year, and also a sufficient sum to pay the principal and interest of the existing indebtedness of the State.



Section 3. No tax shall be levied except in pursuance of law.

Section 4. No money shall be drawn from the treasury except in pursuance of appropriations made by law.

Section 5. The Legislature shall authorize the several counties and incorporated cities or towns in the State to assess and impose taxes for county and municipal purposes, and for no other purposes, and all property shall be taxed upon the principles established for State taxation. But the cities and incorporated towns shall make their own assessments for municipal purposes upon the property within their limits. The Legislature may also provide for levying a special capitation tax, and a tax on licenses. But the capitation tax shall not exceed one dollar a year and shall be applied exclusively to common school purposes.

Section 6. The Legislature shall have power to provide for issuing State bonds only for the purpose of repelling invasion or suppressing insurrection, or for the purpose of redeeming or refunding bonds already issued, at a lower rate of interest.

Section 7. No tax shall be levied for the benefit of any chartered company of the State, nor for paying interest on any bonds issued by such chartered companies, or by counties, or by corporations, for the above mentioned purpose.

Section 8. No person or corporation shall be relieved by any court from the payment of any tax that may be illegal, or illegally, or irregularly assessed, until he or it shall have paid such portion of his or its taxes as may be legal, and legally and regularly assessed.

Section 9. There shall be exempted from taxation property to the value of five hundred dollars to every widow that has a family dependent on her for support, and to every person who is a bona fide resident of the State and has lost a limb or been disabled in war or by misfortune.

Section 10. The credit of the State shall not be pledged or loaned to any individual, company, corporation or association; nor shall the State become a joint owner or stockholder in any company, association or corporation. The Legislature shall not authorize any county, city, borough, township or incorporated district to become a stockholder in any company, association or corporation, or to obtain or appropriate money for, or to loan its credit to, any corporation, association, institution or individual

## ARTICLE X

## HOMESTEAD AND EXEMPTIONS

Section 1. A homestead to the extent of one hundred and sixty acres of land, or the half of one acre within the limits of any incorporated city or town, owned by the head of a family residing in this State, together with one thousand dollars' worth of personal property, and the improvements on the real estate, shall be exempt from forced sale under process of any court, and the real estate shall not be alienable without the joint consent of husband and wife, when that relation exists. But no property shall be exempt from sale for taxes or assessments, or for the payment of obligations contracted for the purchase of said property, or for the erection or repair of improvements on the real estate exempted, or for house, field or other labor performed on the same. The exemption herein provided for in a city or town shall not extend to more improvements or buildings than the residence and business house of the owner; and no judgment or decree or execution shall be a lien upon exempted property except as provided in this article.

Section 2. The exemptions provided for in section one shall inure to the widow and heirs of the party entitled to such exemption, and shall apply to all debts, except as specified in said section.

Section 3. The exemptions provided for in the Constitution of this State adopted in 1868 shall apply as to all debts contracted and judgments rendered since the adoption thereof and prior to the adoption of this Constitution.

Section 4. Nothing in this article shall be construed to prevent the holder of a homestead from alienating his or her homestead so exempted by deed or mortgage duly executed by himself or herself, and by husband and wife, if such relation exists; nor if the holder be without children to prevent him or her from disposing of his or her homestead by will in a manner prescribed by law.

Section 5. No homestead provided for in section one shall be reduced in area on account of its being subsequently included within the limits of an incorporated city or town, without the consent of the owner.

Section 6. The Legislature shall enact such laws as may be necessary to enforce the provisions of this article.

## ARTICLE XI

## MARRIED WOMEN'S PROPERTY

Section 1. All property, real and personal, of a wife owned by her before marriage, or lawfully acquired afterwards by gift, devise, bequest, descent, or purchase, shall be her separate property, and the same shall not be liable for the debts of her husband without her consent given by some instrument in writing, executed according to the law respecting conveyances by married women.

Section 2. A married woman's separate real or personal property may be charged in equity and sold, or the uses, rents and profits thereof sequestrated for the purchase money thereof; or for money or thing due upon any agreement made by her in writing for the benefit of her separate property; or for the price of any property purchased by her, or for labor and material used with her knowledge or assent in the construction of buildings, or repairs, or improvements upon her property, or for agricultural or other labor bestowed thereon, with her knowledge and consent.

Section 3. The Legislature shall enact such laws as shall be necessary to carry into effect this article.

## ARTICLE XII

## EDUCATION

Section 1. The Legislature shall provide for a uniform system of public free schools, and shall provide for the liberal maintenance of the same.

Section 2. There shall be a superintendent of public instruction, whose duties shall be prescribed by law, and whose term of office shall be for four years and until the election and qualification of his successor.

Section 3. The Governor, Secretary of State, Attorney General, State Treasurer and State Superintendent of Public Instruction shall constitute a body corporate, to be known as the State Board of Education of Florida, of which the Governor shall be president, and the Superintendent of Public Instruction secretary. This board shall have power to remove any subordinate school officer for cause upon notice



to the incumbent; and shall have the management and investment of all State school funds under such regulations as may be prescribed by law, and such supervision of schools of higher grades as the law shall provide.

Section 4. The State School Fund, the interest of which shall be exclusively applied to the support and maintenance of public free schools, shall be derived from the following sources:

The proceeds of all lands that have been or may hereafter be granted to the State by the United States for public school purposes.

Donations to the State when the purpose is not specified.

Appropriations by the State.

The proceeds of escheated property or forfeitures.

Twenty-five per cent of the sales of public lands which are now or may hereafter be owned by the State.

Section 5. The principal of the State School Fund shall remain sacred and inviolate.

Section 6. A special tax of one mill on the dollar of all taxable property in the State, in addition to the other means provided, shall be levied and apportioned annually for the support and maintenance of public free schools.

Section 7. Provision shall be made by law for the apportionment and distribution of the interest on the State School Fund, and all other means provided, including the special tax, for the support and maintenance of public free schools among the several counties of the State in proportion to the average attendance upon schools in the said counties respectively.

Section 8. Each county shall be required to assess and collect annually for the support of the public free schools therein, a tax of not less than three (3) mills, nor more than ten (10) mills on the dollar on all taxable property in the same.

Section 9. The county school fund shall consist, in addition to the tax provided for in section eight of this article, of the proportion of the interest of the State school fund and of the one mill State tax apportioned to the county; the net proceeds of all fines collected under the penal laws of the State within the county; all capitation taxes collected within the county; and shall be disbursed by the county board of public instruction solely for the maintenance and support of public free schools.

Section 10. The Legislature may provide for the division of any county or counties into convenient school districts; and for the election



biennially of three school trustees, who shall hold their office for two years, and who shall have the supervision of all the schools within the district; and for the levying and collection of a district school tax, for the exclusive use of public free schools within the district, whenever a majority of the qualified electors thereof that pay a tax on real, or personal property shall vote in favor of such levy; Provided, That any tax authorized by this section shall not exceed three mills on the dollar in any one year on the taxable property of the district.

Note.—The Legislature of 1921 submitted a proposed amendment to the above section, which if ratified in 1922 by the electors will increase the amount of tax millage which may be levied by special school districts to 10 mills.

Section 11. Any incorporated town or city may constitute a school district. The fund raised by section ten may be expended in the district where levied for building or repairing school houses, for the purchase of school libraries and text-books, for salaries of teachers, or for other educational purposes, so that the distribution among all the schools of the district be equitable.

Section 12. White and colored children shall not be taught in the same school, but impartial provision shall be made for both.

Section 13. No law shall be enacted authorizing the diversion or the lending of any county or district school funds, or the appropriation of any part of the permanent or available school fund to any other than school purposes; nor shall the same, or any part thereof, be appropriated to or used for the support of any sectarian school.

Section 14. The Legislature at its first session shall provide for the establishment, maintenance and management of such normal schools, not to exceed two, as the interests of public education may demand.

Section 15. The compensation of all county officers shall be paid from the school fund of their respective counties, and all other county officers receiving stated salaries shall be paid from the general fund of their respective counties.

Section 16. (Proposed section defeated at general election of 1908.)

Section 17. The Legislature may provide for Special Tax School Districts, to issue bonds for the exclusive use of public free schools within any such Special Tax School District, whenever a majority of the qualified electors thereof, who are free holders, shall vote in favor of the issuance of such bonds.

Whenever any such Special Tax School District has voted in favor of the issuance of such bonds, a tax not to exceed five mills on the dollar, in any one year, on the taxable property within the district voting for the issue of bonds shall be levied in accordance with law providing for the levying of taxes, to become a fund for the payment of the interest and redemption of such bonds.

## ARTICLE XIII

### PUBLIC INSTITUTIONS

Section 1. Institutions for the benefit of the insane, blind and deaf, and such other benevolent institutions as the public good may require, shall be fostered and supported by the State, subject to such regulations as may be prescribed by law.

Section 2. A State prison shall be established and maintained in such manner as may be prescribed by law. Provision may be made by law for the establishment and maintenance of a house of refuge for juvenile offenders; and the Legislature shall have power to establish a home and work-house for common vagrants.

Section 3. The respective counties of the State shall provide in the manner prescribed by law for those of the inhabitants that by reason of age, infirmity or misfortune, may have claims upon the aid and sympathy of society.

Section 4. The first Legislature that convenes after the adoption of this Constitution shall enact the necessary laws to carry into effect the provisions of this article.

## ARTICLE XIV

### MILITIA

Section 1. All able-bodied male inhabitants of the State, between the ages of eighteen and forty-five years, that are citizens of the United States, or have declared their intention to become citizens thereof, shall constitute the militia of the State; but no male citizens of whatever religious creed or opinion, shall be exempt from military duty except upon such conditions as may be prescribed by law.

Section 2. The Legislature may provide by law for organizing and disciplining the militia of the State, for the encouragement of volunteer corps, the safe keeping of the public arms, and for a guard for the State prison.

Section 3. The Governor, by and with the consent of the Senate, shall appoint two major-generals and four brigadier-generals of militia. They shall rank according to the dates of their commissions. The officers and soldiers of the State militia, when uniformed, shall wear the uniform prescribed for the United States army; Provided, That volunteer companies may select their own uniforms.

Section 4. The Governor shall have power to call out the militia to preserve the public peace, to execute the laws of the State, to suppress insurrection, or repel invasion.

## ARTICLE XV

### PUBLIC HEALTH

Section 1. The Legislature shall establish a State board of health and also county boards of health in all counties where it may be necessary.

Section 2. The State board of health shall have supervision of all matters relating to public health, with such duties, powers and responsibilities as may be prescribed by law.

Section 3. The county boards of health shall have such powers and be under the supervision of the State board to such extent as the Legislature may prescribe.

## ARTICLE XVI

### MISCELLANEOUS PROVISIONS

Section 1. The seat of government shall be at the city of Tallahassee, in the county of Leon.

Section 2. Each and every officer of this State, including the members of the Legislature, shall before entering upon the discharge of his official duties takes the following oath of office: "I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that



I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of \_\_\_\_\_ on which I am now about to enter. So help me God."

Section 3. The salary of each officer shall be payable quarterly upon his own requisition.

Section 4. All county officers shall hold their respective offices, and keep their official books and records, at the county seats of their counties; and the clerk and sheriff shall either reside, or have a sworn deputy, within two miles of the county seat.

Section 5. The Legislature may provide for the donation of the public lands to actual settlers, but such donation shall not exceed eighty acres to any one person.

Section 6. The Legislature shall provide for the speedy publication and distribution of all laws it may enact. Decisions of the Supreme Court and all laws and judicial decisions shall be free for publication by any person. But no judgment of the Supreme Court shall take effect until the decision of the court in such case shall be filed with the clerk of said court.

Section 7. The Legislature shall not create any office, the term of which shall be longer than four years.

Section 8. A plurality of votes given at an election of officers shall constitute a choice when not otherwise provided by this Constitution.

Section 9. In all criminal cases prosecuted in the name of the State, when the defendant is insolvent or discharged, the legal costs and expenses, including the fees of officers, shall be paid by the counties where the crime is committed, under such regulations as shall be prescribed by law; and all fines and forfeitures collected under the penal laws of the State shall be paid into the county treasuries of the respective counties as a general county fund to be applied to such legal costs and expenses.

Section 10. The Governor, Supreme Court and all the administrative officers of the executive department shall keep their offices at the seat of government. But in case of invasion or violent epidemics the Governor may direct that the offices of the government be removed temporarily to some other place. The sessions of the Legislature may be adjourned for the same cause to some other place, but in case of such removal all the departments of the government shall be removed to one place. But such removal shall not continue longer than the necessity for the same shall continue.



Section 11. No extra compensation shall be made to any officer, agent, employe, or contractor after the service shall have been rendered, or the contract made; nor shall any money be appropriated or paid on any claim the subject matter of which shall not have been provided for by pre-existing laws, unless such compensation or claim be allowed by bill passed by two-thirds of the members elected to each House of the Legislature.

Section 12. The present seal of the State shall remain the seal of the State of Florida. The State flag shall be of the following proportions and description: Depth to be three-fourths length of flag. The seal of the State, of diameter one-third of the flag, in the center of a white ground; red bars, in width one-eighth the length of flag extending from each corner toward the center, to the outer rim of the seal.

Section 13. The sureties upon the official bonds of all State, county, and municipal officers shall be residents of, and have sufficient visible property unencumbered within the State, not exempt from sale under legal process, to make good their bonds; and the sureties upon the official bonds of all county and municipal officers shall reside within the county where their principals upon such bonds reside, and shall have sufficient visible and unencumbered property in such county that is not exempt from sale under legal process to make good their liability on such bonds; Provided, That any duly organized and responsible guarantee or surety company, either foreign or domestic, lawfully doing business in this State, may become and be accepted as surety on all such official bonds.

Section 14. All State, county and municipal officers shall continue in office after the expiration of their official terms until their successors are duly qualified.

Section 15. No person holding or exercising the functions of any office under any foreign government, under the government of the United States, or under any other State, shall hold any office of honor or profit under the government of this State; and no person shall hold, or perform the functions of, more than one office under the government of this State at the same time; Provided, Notaries public, militia officers, county school officers and commissioners of deeds may be elected or appointed to fill any legislative, executive or judicial office.

Section 16. The property of all corporations, except the property of a corporation which shall construct a ship or barge canal across the peninsula of Florida, if the Legislature shall so enact, whether hereto-

fore or hereafter incorporated, shall be subject to taxation unless such property be held and used exclusively for religious, scientific, municipal, educational, literary or charitable purposes.

Section 17. No person shall hold any office of trust or profit under the laws of this State without devoting his personal attention to the duties of the same.

Section 18. The Legislature shall provide for deductions from the salaries of public officers who neglect the performance of any duty assigned them by law.

Section 19. No convention nor Legislature of this State shall act upon any amendment of the Constitution of the United States proposed by Congress to the several states, unless such convention or Legislature shall have been elected after such amendment is submitted.

Section 20. The Governor and every State officer are hereby prohibited from giving certificates of election or other credentials to any person as having been elected to the House of Representatives of the United States Congress, or the United States Senate, who has not been five years a citizen of the State and ten years a citizen of the United States, and a qualified voter.

Section 21. Deeds and mortgages which have been proved for record and recorded according to law, shall be taken as prima facie evidence in the courts in this State without requiring proof of the execution. A certified copy of the record of any deed or mortgage that has been or shall be duly recorded according to law shall be admitted as prima facie evidence thereof, and of its due execution with like effect as the original duly proved; Provided, It be made to appear that the original is not within the custody or control of the party offering such copy.

Section 22. The Legislature shall provide for giving to mechanics and laborers an adequate lien on the subject matter of their labor.

Section 23. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war except in the manner prescribed by law.

Section 24. All marriages between a white person and a negro, or between a white person and a person of negro descent to the fourth generation, inclusive, are hereby forever prohibited.

Section 25. The term felony, whenever it may occur in this Constitution or in the laws of the State, shall be construed to mean any criminal offense punishable with death or imprisonment in the State penitentiary.

Section 26. The Legislature may make provision for the proper adjustment and settlement of the claim of the citizens of Ocala against the State for certain aid given by the town of Ocala for the establishment of the East Florida Seminary in 1852, and conditional upon its location at the said town.

Section 27. The Legislature shall appropriate at least five hundred dollars each year for the purchase of such books for the Supreme Court library as the court may direct.

Section 28. The Legislature may provide for the drainage of the land of one person over or through that of another, upon just compensation therefor to the owner of the land over which such drainage is had.

Section 29. No private property nor right of way shall be appropriated to the use of any corporation or individual until full compensation therefor shall be first made to the owner, or first secured to him by deposit of money; which compensation, irrespective of any benefit from any improvement proposed by such corporation or individual, shall be ascertained by a jury of twelve men in a court of competent jurisdiction, as shall be prescribed by law.

Section 30. The Legislature is invested with full power to pass laws for the correction of abuses and to prevent unjust discrimination and excessive charges by persons and corporations engaged as common carriers in transporting persons and property, or performing other services of a public nature; and shall provide for enforcing such laws by adequate penalties or forfeitures.

Section 31. No railroad or other transportation company or common carrier in this State shall grant a free pass, or discount the fare paid by the public generally, to any member of the Legislature, or to any salaried officer of this State, and the Legislature shall prohibit the granting or receiving such free pass, or fare at a discount, by suitable penalties.

## ARTICLE XVII

### AMENDMENTS

Section 1. Either branch of the Legislature, at a regular session thereof, may propose amendments to this Constitution; and if the same be agreed to by three-fifths of all the members elected to each House, such proposed amendments shall be entered upon their respective journals



with the yeas and nays, and published in one newspaper in each county where a newspaper is published, for three months immediately preceding the next general election of representatives, at which election the same shall be submitted to the electors of the State for approval or rejection. If a majority of the electors voting upon the amendments at such election shall adopt the amendments the same shall become a part of the Constitution. The proposed amendments shall be so submitted as to enable the electors to vote on each amendment separately.

Section 2. If at any time the Legislature, by a vote of two-thirds of all the members of both Houses, shall determine that a revision of this Constitution is necessary, such determination shall be entered upon their respective journals, with the yeas and nays thereon. Notice of said action shall be published weekly in one newspaper in every county in which a newspaper is published, for three months preceding the next general election of representatives, and in those counties where no newspaper is published, notice shall be given by posting at the several polling precincts in such counties for six weeks next preceding said election. The electors at said election may vote for or against the revision in question. If a majority of the electors so voting be in favor of revision, the Legislature chosen at such election shall provide by law for a convention to revise the Constitution, said convention to be held within six months after the passage of such law. The convention shall consist of a number equal to the membership of the House of Representatives, and shall be apportioned among the several counties in the same manner as members of said House.

## ARTICLE XVIII

### SCHEDULE

Section 1. The Constitution adopted A. D. 1868, with amendments thereto, is declared to be superseded by this Constitution; But all rights, actions, claims and contracts, both as respects individuals and bodies corporate, shall continue to be as valid as if this Constitution had not been adopted. And all fines, taxes, penalties and forfeitures due and owing to the State of Florida under the Constitution of 1868, shall inure to the use of the State under this Constitution.

Section 2. All laws now in force not inconsistent with this Constitution shall continue in force until they shall expire by their own limitation, or be repealed by the Legislature.



Section 3. All persons holding any office or appointment at the ratification of this Constitution shall continue in the exercise of the duties thereof, according to their respective commissions or appointments, and until their successors are duly qualified, unless by this Constitution otherwise provided.

Section 4. Nothing contained in this Constitution shall operate to vacate the office of Lieutenant-Governor until the expiration of his present term.

Section 5. All vacancies occurring by limitation of terms before the general election of 1888 shall be filled as provided for by law under the Constitution of 1868.

Section 6. The term of office for all appointees to fill vacancies in any of the elective offices under this Constitution, shall extend only to the election and qualification of a successor at the ensuing general election.

Section 7. In all cases of elections to fill vacancies in office such election shall be for the unexpired term.

Section 8. Upon the ratification of this Constitution the Commissioner of Lands and Immigration shall assume the office of Commissioner of Agriculture, and his duties as such shall be prescribed by the first Legislature assembled under this Constitution.

Section 9. A general election shall be held in each county in this State on the first Tuesday after the first Monday in November, A. D. 1898, and every two years thereafter, for all elective State and county officers whose terms of office are about to expire, or for any elective office that shall have become vacant.

Section 10. The first election for County Judge, Clerk of the Circuit Court, Sheriff, Tax Assessor, Tax Collector, County Treasurer, County Superintendent of Public Instruction, County Surveyor, Justices of the Peace, Constables and all other elective officers shall be at the general election in 1888.

Section 11. It shall be the duty of the president of this convention immediately on its adjournment to certify to the Governor a copy of this Constitution.

Section 12. Upon receipt of such certified copy the Governor shall forthwith announce the fact by proclamation, to be published in such newspapers in this State as may be deemed requisite for general information, and five printed copies of such Constitution shall be transmitted

by the Secretary of State to the clerk of the Circuit Court, and five to the county judge of each county, which shall be kept on file in their respective offices for examination by any person desiring the same.

Section 13. All courts as now organized and constituted shall continue with their jurisdiction until the Legislature shall conform to the requirements of this Constitution the jurisdiction of such courts as, under this Constitution, are to exercise in whole or in part the jurisdiction of courts now organized.

Section 14. The terms of office of all county officers, unless otherwise provided, shall commence on the first Tuesday after the first Monday in January next after their election.

## ARTICLE XIX

### PROHIBITION

Section 1. The manufacture, sale, barter or exchange of all alcoholic or intoxicating liquors and beverages, whether spirituous, vinous or malt, are hereby forever prohibited in the State of Florida, except alcohol for medical, scientific or mechanical purposes, and wine for sacramental purposes; the sale of which alcohol and wine for the purposes aforesaid, shall be regulated by law.

Section 2. The Legislature shall enact suitable laws for the enforcement of the provisions of this article.

Section 3. This article shall go into effect on the first day of January, A. D. 1919.

# Ordinances of the Constitutional Convention of 1885

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## ORDINANCE No. 1

Section 1. This Constitution shall be submitted to the people of the State of Florida for ratification on the first Tuesday after the first Monday in November, A. D. 1886, and it shall require a majority of the votes cast upon the question to determine its ratification or rejection.

Section 2. At such an election each qualified elector shall express his assent or dissent, by having written or printed upon the ticket which he shall vote the words, "For the Constitution," or "Against the Constitution;" such election being subject to the same regulations and restrictions as are now prescribed by law. And in case of its ratification by the people, the Governor shall forthwith cause proclamation to be made of the fact, and it shall go into effect on the first day of January, A. D. 1887.

## ORDINANCE No. 2

Section 1. Article XIX shall be submitted to the people, when the Constitution is submitted for ratification, to become a part of the Constitution, if adopted by a majority of the votes cast upon the question, and the ballots of those voting on this article shall have written or printed on them the words "For Article XIX," or "Against Article XIX."

## ORDINANCE No. 3

Be it Ordained by the People of Florida, Represented in Constitutional Convention:

Section 1. The pay of the members of this Constitutional Convention shall be a per diem for attendance of six (\$6.00) dollars a day in addi-

tion to mileage of ten cents a mile, each way, from their places of residence to the capital and return, estimated by the shortest thoroughfare.

Section 2. The pay of the secretary and assistant secretary of the convention and all the clerks elected by the convention shall be six (\$6.00) dollars per diem each, allowing the secretary and assistant secretary one day after adjournment to complete unfinished business; all committee clerks shall receive five (\$5.00) dollars per diem for the number of days certified by the chairman of the committee; the pay of the sergeant-at-arms shall be six (\$6.00) dollars per diem, and the assistant sergeant-at-arms shall be five (\$5.00) dollars per diem; the pay of the messengers of the convention shall be four (\$4.00) per diem each; the pay of the door-keeper shall be five (\$5.00) dollars per diem; the pay of the pages shall be three (\$3.00) dollars per diem each; the pay of the janitor shall be two (\$2.00) dollars per diem; the pay of the chaplain shall be one hundred dollars. The recording clerk shall complete his work after the adjournment of the convention, under the supervision of the Secretary of State, and shall be paid for the same fifty dollars when his work is completed. Eighteen dollars shall be paid W. R. Carter for services as assistant secretary for three days. Messrs. Dorr and Bowen shall be paid for printing the amount approved by the committee on printing, certified by the president and secretary of the convention.

Section 3. The Comptroller is required to draw his warrant on the treasurer in favor of the officers and employes of this convention for the full amount allowed them by section two, and to each delegate of this convention for his pro rata share of the amount appropriated by the Legislature, after deducting from said amount the amount due said employes and all other expenses, including mileage of members, incurred by this convention.

Section 4. The president is authorized on behalf of this convention to issue certificates signed by himself and countersigned by the secretary to each of the members, payable to himself or his order, bearing interest at the rate of eight per cent. per annum from date, for the amount remaining due on account of the deficiency of the legislative appropriation for expenses of this convention.

Section 5. The Legislature shall make an appropriation at its next session to pay said certificates.



Section 6. Be it further ordained. That the secretary of this convention be and he is hereby authorized to audit the accounts of the members and all other expenses.

Done in open convention, at Tallahassee, this third day of August, A. D. eighteen hundred and eighty-five, and of the independence of the United States the one hundred and tenth year.

S. PASCO, *President.*

J. E. YONGE, *First Vice-President.*

WM. H. REYNOLDS, *Secretary Convention.*

W. M. BENNETT,	W. T. ORMAN,
JAMES R. CHALLEN,	WM. F. THOMPSON,
NORMAN T. SCOTT,	HUGH E. MILLER,
WM. A. BLOUNT,	WM. R. BUSH,
A. E. MAXWELL,	ROBT. F. ROGERS,
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